



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

MISCELLANEOUS APPLICATION NO 6 OF 2016

**IN THE MATTER OF THE ADVOCATES ACT, CAP 16 LAWS OF KENYA & RULE 11 OF
THE ADVOCATES REMUNERATION RULES**

AND

IN THE MATTER OF NAIROBI ELRC CAUSE NO 611(N) OF 2009

BETWEEN

MARIA KAGAI LIGAGA VS COCA COLA EAST & CENTRAL AFRICA LTD

IN THE MATTER OF TAXATION OF CLIENT/ADVOCATE BILL OF COSTS

RULING DELIVERED ON 18TH JANUARY 2017

BETWEEN

FRANCIS M.O. KADIMA

T/A KADIMA & COMPANY ADVOCATES.....APPLICANT

VERSUS

MARIA KAGAI LIGAGA.....RESPONDENT

RULING

1. The Applicant's application dated 16th March 2017 and filed in court on 17th March 2017 seeks the following:

- a) Leave to file notice of objection to taxation ruling delivered on 18th January 2017;
- b) Leave to file a reference against the said ruling;
- c) Stay of execution of the ruling pending lodging of a notice of objection to and reference on taxation.

2. The application, which is supported by the affidavit of Francis M.O. Kadima, Advocate, sworn on 16th March 2017, is based on the following grounds:

- a) That the Applicant, being dissatisfied with the ruling delivered on 18th January 2017, intends to lodge a notice of objection to taxation and reference thereon;
- b) That by notice dated 20th February 2017, the Respondent has threatened to execute against the Applicant;
- c) That at the time of the ruling, the Deputy Registrar informed the Advocates on record that that the ruling had errors to be corrected before release of fair copies to the Advocates;
- d) That it was not until 1st March 2017 when the Applicant received a copy of the ruling by which date time for lodging notice had lapsed on or about 1st February 2017. The Applicant was therefore unable to lodge notice of objection to taxation within the stipulated time;
- e. That the Applicant stands to suffer prejudice if the orders sought are not granted.

3. In a replying affidavit sworn by the Respondent on 10th May 2017, she depones that the Applicant's application is way out of time. The Respondent adds that the Applicant had adequate time to collect certified copies of the ruling and file a notice of objection to taxation in accordance with the Rules. The Respondent takes the view that the Applicant has been indolent and is guilty of inexcusable and inordinate delay.

4. A perusal of the court record reveals that the ruling by the Deputy Registrar was delivered on 18th January 2017, in the presence of Counsel for both parties. There is no record of the words assigned to the Deputy Registrar that the said ruling had errors for correction. At any rate, the Court did not see any efforts made by the Applicant to pursue a fair copy of the ruling.

5. That being the case, I find that no good reason has been given as to why the Applicant did not file notice of objection to taxation within the prescribed time. The Applicant's application dated 16th March 2017 is therefore dismissed with costs to the Respondent.

6. Orders accordingly.

DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 10TH DAY OF NOVEMBER 2017

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JUDGE

Appearance:

Ms. Kadima for the Applicant

Mr. Omariba for the Respondent