



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU

CAUSE NO. 389 OF 2014

MARY MUMBI KARIUKI.....CLAIMANT

v

THE DIRECTOR, PAMOJA WOMEN DEVELOPMENT

PROGRAMME.....RESPONDENT

RULING NO. 2

1. The Respondent, through an application dated 19 June 2017 challenged taxation of the Claimant's bill of costs.
2. The bill had been taxed at Kshs 104,360/- .
3. According to the Respondent, considering that the decretal sum was only Kshs 100,925/-, the bill as taxed was so high as to be erroneous.
4. Other grounds for challenging the taxation were that the hearing notice for taxation was too short such that the advocate on record could not attend because of engagements before the Environment and Land Court in Nairobi ELC Suit No. 405 of 2012 (notice was served on 13 March 2017 and the taxation was scheduled for 20 March 2017).
5. When the application challenging taxation was placed before Court *ex-parte* on 19 June 2017, the Court allowed proposed order 2 therein on condition that Kshs 50,000/- would be deposited in Court before 24 June 2017 (the Respondent complied with the condition) and directed that the application be served for *inter partes* hearing on 11 July 2017.
6. The Claimant did not respond to the application nor was she represented during arguments on 11 July 2017.
7. The Court, having satisfied itself that the application had been served allowed the Respondent's counsel to proceed.
8. A Challenge to taxation of bill of costs should take the form of a reference. The Respondent did not take that route and in that respect the challenge is incompetent.
9. On the ground advanced that the hearing notice for the taxation was too short, the Court observes from the record that that was the second attempt at taxation (the earlier taxation scheduled for 2 February 2017 having aborted) and that the 7 days' notice was not too short in the circumstances.

10. The Court, without doubting that the Respondent's advocate was engaged before a higher Court notes that there was no disclosure as to why arrangements were not made to have an advocate hold brief to seek an adjournment.

11. Such arrangement is what would have been expected of the Respondent.

12. In the event, the Court not only finds no merit in the motion dated 19 June 2017 but that it is incompetent and orders that it be dismissed with costs.

Delivered, dated and signed in Nakuru on this 6th day of November 2017.

Radido Stephen

Judge

Appearances

For Claimant Korongo & Co. Advocates (did not participate in application)

For Respondent Mr. Charagu instructed by Kimani Charagu & Co. Advocates

Court Assistants Nixon/ Martin