

IN THE HIGH COURT OF TANZANIA

AT MBEYA

(PC) CIVIL APPEAL NO. 149 OF 1996

(From District Court of Mbeya Civ. App.No.140/94)

COSTA YANILENGA.....APPELLANT

VERSUS

TABIA ROBERT.....RESPONDENT

R U L I N G

This is a Respondent's bill of costs. It consists of a total of 15 items.

Both parties appeared before this court to argue the bill of costs but neither of them really knew how and what to tell the court. The D/Holder (Respondent in this case) simply produced receipts saying that they show the expenses she incurred in conducting this case. She produced seven receipts and 22 bus tickets.

The judgement debtor on his part simply resisted the costs of travelling to Zambia done by the D/H and also costs of opening administration cause case which he said had no relevance to this case.

The duty of the D/H in this matter, was to justify her claims by giving explanation of how she spent the money she claims item by item. In the same manner, the J/D had, as a duty, to tell the grounds of resisting some or all of the claims or else admit them. None of the two, as I have said above, dispensed his duty.

In the event, therefore this court is left at a cross-road on how to deal with the matter.

As for the 22 bus tickets presented in court to justify the travel expenses of the D/H I would, at the very outright, say that there is no justification at all. This is because she did not tell this court where she was living when the case was being conducted. Such expenses are payable to a successful party living far from the court and also there must be a proof the availability the buses. There is ^{no} such explanation. Further to the above even the bill of costs presented does not show such claims.

The basis of this bill of costs is this court judgement dated 9/7/99. The judgement ordered "this appeal is dismissed with costs". Definately costs payable to the D/H are those incurred in conducting this appeal alone. The order did not say "costs of this court and courts below" which would enable the D/H to claim costs of lower courts too.

I have thoroughly gone through the bill of costs and the proceedings in the High Court which shows that the Respondent attended court on 21/8/1998, 10/11/1998, and on 16/7/1999 only.

In the bill of costs the D/H claims Tshs. 1,500/= each for attending court on 21/8/1998 and 10/11/1998. They are justifiable and are taxed as presented.

Also upon going through the ERV presented I have seen ERV No. 14516095 issued on 14/5/2002 being fees for bill of costs in (PC) Civil Appeal No. 49/96 and ERV No. 14516102 issued on 16/5/2002 being fees for issue of summons in Civil Appeal No. 49/96 which costed the D/H Tshs. 2,000/= and 1,500/= respectively. These costs are claimed by the D/H in the bill of costs. They are justifiable and are authenticated by receipts. I accordingly award them as claimed.

The rest of the claims as stated earlier were not argued and also not authenticated by receipts. They are accordingly taxed off.

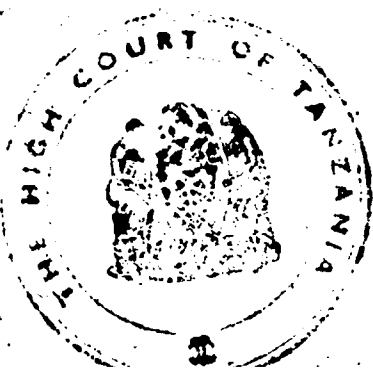
In total therefore, this bill of costs is taxed at Tshs. 6,500/= (six thousand five hundred only).

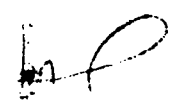
S. A. LILA
DISTRICT REGISTRAR
MBEYA
23/7/2002

23/7/2002

Coram: S. A. Lila - DR
D/Holder: Presented in person
J/Debtor: Absent with notice
C/C Salome

ORDER: Ruling delivered today in the presence of D/H and absence of J/D.




S. A. LILA
DISTRICT REGISTRAR
23/7/2002