



IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF BUKOBA

AT BUKOBA

REFERENCE NO. 5 OF 2018

*(Arising from Misc Application No. 188 of 2018 and Appeal No. 237 of 2012 at Bukoba District
Land and Housing Tribunal. Originating from Civil Case No. 103 of 2012*

at the Bugandika Ward Tribunal)

FAUSTIN EDWARD.....APPLICANT

VERSUS

VICTOR RUMANYIKA.....RESPONDENT

RULING

6/10/2020 & 16/10/2020

KAIRO, J.

In this reference, the Applicant challenges the decision of the taxing master at the DLHT which taxed him to pay the sum of Tshs.441, 000.

In paragraph 3 of the Applicant's affidavit he averred that the amount taxed is ambiguous as it is not known what basis the Tribunal and the Respondent used in reaching at the said sum.

Having been given a chance to amplify his averments in his affidavit, the Applicant submitted that the tickets do not tally with the dates when the case

was scheduled. He added that the tickets were written by one person. Moreover, the Applicant also contended that there was a claim that the Respondent slept in a guest house but there were no proof of receipt for that effect.

He was therefore to the effect that the attached receipts were not genuine.

In response to the Applicant's submission, the Respondent dismissed the Applicant's contention which he stated to be baseless as they were the same submitted at the DLHT whereby the DLHT verified the claim and awarded the taxed amount.

In rejoinder, the Applicant objected to have similar submission with that he made at the DLHT.

Having heard the submissions from both parties, it is evident that the main issue to be determined in this matter is whether the taxed amount of Tshs.441,000/= was correctly reached.

In answering the above issue, it was pertinent for me to pass through the relevant documents to wit; certificate as to folio, scheduling dates appearing in relevant proceedings of the entire court record, bus tickets and various ERV receipts for payments so as to verify the amount taxed by the taxing master.

Having made a thorough scrutiny from the said relevant documents as per the record, I observed the followings; **one** that on 25.10.2012 though the case

was scheduled for mention neither party appeared therefore Tshs. 17,000/= will be subtracted from the total of Tshs. 441,000/=.

Two, the date of 5/6/2013 appearing in no.8 of the Certificate as to folios was not scheduled for judgment as there is no such date in the DLHT proceedings. Therefore, the sum of Tshs.17,000/= will be subtracted from the taxed amount.

Three, on 4/6/2014 the Respondent (decree holder) attended to court though the said date does not appear in the certificate as to folios. Therefore, the sum of Tshs.17,000/= will be added in the total of the taxed amount.

Four, Tshs.20,000/= taxed as cost spent in Guest Lodge is deducted as there was no receipt to prove that the Respondent slept in the lodge as rightly argued by the Applicant.

With regards to the Applicant's claim that the one who wrote the ticket is the same person, suffice to state that this court is not the proper forum at this juncture to verify the hand writings of unknown persons, as such I found the argument to be baseless as argued by the Respondent. Besides, there is evidence from DLHT that the Respondent attended the court on those dates. In the circumstances the Applicant's claim is therefore rendered superfluous. Besides the said tickets bear various business names which in my view depicts different bus owners. On that note, this court has no reservation that the Respondent travelled by bus from Lukurungo- Bugandika to Bukoba which is the place that the Applicant conceded that they both stay.



The subtractions and additions as explained above brings the total sum of Tshs. 404,000/=

However, for the purposes of not leaving any stone unturned I have also passed through the payment receipts in the entire proceedings and observed that there were some amounts of money evidenced in the available receipts in the court records which were not taxed despite the fact that the Respondent paid them thus the Respondent is required to be reimbursed as well having been awarded costs at the DLHT. Given the fact that both parties are lay persons, I will therefore step into the shoes of the taxing master and accordingly tax them together with the subsequent cost so as to decide this matter as whole for interest of justice and expeditious determination of this matter as hereunder:

- (i) Application for the execution in appeal No. 237 of 2012 of Tshs. 16,000/= in ERV No. 51500426. The amount will be added to the total amount taxed.
- (ii) Application for a copy of judgment: Tshs.16,000/=; ERV No. 51493064. The amount will be added to the total amount taxed.
- (iii) Copy of Ruling in appeal No. 237 of 2012 in ERV No. 475898 with a total of Tshs. 6,000/=. This amount will be added to the total taxed amount.

(iv) Filling execution No. 188/2018: Tshs. 16,000/= in Receipt No. 99002504364. This amount will be added to the taxed amount.

Thus, when added the sum of Tshs. 54,000tsh together with the amount previously taxed of Tshs. 404,000/= bring the total of Tshs. 458,000/= , filling of bill of costs at the DLHT of Tshs. 40,000/= in ERV. No. 7923830. This amount will be added to the taxed amount which after summing up make a total taxed sum of Tshs. 498,000/= which is the amount payable to the respondent by the applicant.

The Applicant is therefore ordered to pay the taxed amount to the tune of Tshs.498,000 to the Respondent.

The reference is allowed to the extent explained above.

It is so ordered.




L.G.Kairo
JUDGE

16/10/2020.

R/A Explained.




L.G.Kairo
JUDGE

16/10/2020.

Date: 16/10/2020

Applicant: Present in person

Respondent: Present in person

B/C Gosbert Rugaika

Court: The matter is for ruling. The same is read over before the Applicant and the Respondent in person in chamber this 16/10/2020



L.G. Kairo

JUDGE

16/10/2020.