

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF BUKOBA
AT BUKOBA**

LAND REFERENCE NO. 02 OF 2021

(Originating from Taxation Cause No. 71/2020 HC Bukoba Land Application No. 46/2020 at DLHT Bukoba)

ERENEO KAMUGISHAAPPLICANT

VERSUS

THOMAS MUTAJWAHARESPONDENT

RULING

25th October & 25th October 2021

Kilekamajenga, J.

The applicant preferred the instant application under **Order 7(1)(2) and (3) of the Advocates Remuneration Order of 2015, GN No. 264** of 17th July 2015. The application was accompanied with an affidavit deposed by the applicant. When the application was due for hearing, the applicant appeared in person while backed-up with legal services of the learned advocate Mr. Eliphaz Bengesi whereas the respondent enjoyed the professional services of two flamboyant advocates Misses Gisera Maruka and Pilly Hussein. In the oral submission, Mr. Bengesi's submission was just brief. He argued that the award of Tshs. 1,122,000/= was unsupported with any receipt and therefore ambiguous. Mr. Bengesi further argued that the respondent applied for Bill of costs vide



Application No. 21 of 2020 but the taxing master delivered Ruling in taxation cause No. 71 of 2020 which does not exist. Thereafter, he rested his case.

On the other hand, Miss Gisera Maruka for the respondent stated that the applicant was supposed to apply for correction of taxation cause No. 21 of 2020 before lodging the instant application. Therefore, the counsel is conceding that the application is incompetent before this Court. On the point of costs, Miss Gisera insisted that the respondent did not need to support the application with receipts because the advocate who represented the respondent was paid and attended in Court.

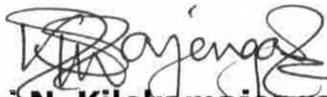
When rejoining Mr. Bengesi did not raise any substantial argument than insisting the points raised in the submission in chief.

In addressing the issues raised in the instant application, I quickly skimmed through the application for costs lodged before this Court. There is no shred of doubt that the respondent filed taxation cause No. 21 of 2020 but the decision was delivered through taxation cause No. 71 of 2020. Without going further, the instant application does not arise from taxation cause No. 71 of 2020. This is an error that renders the instant application incompetent before me. However, I wish to indicate my concern on this application, the counsel for the applicant,



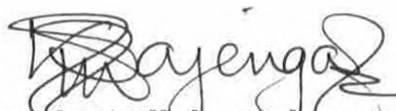
having noticed about the error, was supposed to apply for the correction before lodging the instant application. I find him to be negligent on this matter. I hereby struck out the application with costs. It is so ordered.

DATED at **BUKOBA** this 25th day of October, 2021.


Ntemi N. Kilekamajenga.
JUDGE
25/10/2021

Court:

Ruling delivered this 25th October 2021 in the presence of the applicant and his counsel, Mr. Eliphaz Bengesi and the respondent and his counsel, Miss Gisera Maruka.


Ntemi N. Kilekamajenga.
JUDGE
25/10/2021

