

**IN THE HIGH COURT OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA**

CIVIL REFERENCE NO. 2 OF 2020

(Originating from Taxation Cause No. 49 of 2018 and civil case no. 22 of 2017 of the District Court of Dodoma at Dodoma).

BEATUS RUZUBA MAGAYANE APPLICANT

VERSUS

THE MANAGING DIRECTOR

TANZANIA WOMEN'S BANK RESPONDENT

RULING

24th August, 2021 & 9th March, 2022

M.M. SIYANI, J.

The applicant's suit against the respondent was struck out with costs. Consequently, the respondent filed a bill of costs of Tshs. 13,520,000/= which was taxed at Tshs. 2,020,000/=. The rest was taxed off. Being aggrieved, the applicant preferred the instant application on ground that costs awarded was out of scale as the court awarded unproved costs. In this Court, the applicant enjoyed the service of Charles Peter Simon, the learned counsel while the respondent was represented by Mbuga Emanuel, learned counsel. The application was heard by way of filing written submissions.

Upon considering the bill of costs before him, the taxing master allowed two items only. These are instruction fees at Tshs. 2,000,000/= instead of Tshs. 10,000,000/= claimed and Tshs. 20,000/= being filing fees which was taxed as presented. The applicant would like instruction fees to be charged at Tshs. 1,000,000/= because the case ended at a preliminary stage. Therefore, this is the only item subject for determination in this reference.

The claim was for general damages amounting to Tshs. 75,000,000/=. Instruction fees was paid to defend this claim. It does not matter the stage at which the case ended. Fees were paid. Considering the fact that instruction fees are prepaid, it is my view that the taxing master exercised his discretion to assess the payable fees judiciously and I find no reason to disturb his finding. The taxed fee is even below the scale range of between 3% - 8% of the claim per the Advocates Remuneration Order, 2015. The application is without merits. I dismiss it with costs.

DATED at DODOMA this 9th March, 2022.



SIYANI.M.M

JUDGE