

**IN THE HIGH COURT OF TANZANIA**

**AT TANGA**

**BILL OF COSTS NO. 24 OF 2017**

*(Arising from Land Appeal No. 74 of 2008 and the Ruling in  
Misc.Civil Application No. 70 of 2016 of the High Court at Tanga)*

YAHAYA MBUGHUNI.....DECREE HOLDER

VERSUS

CHARLES SEMBWANA.....JUDGMENT DEBTOR

**RULING**

**5<sup>th</sup> July & 29<sup>th</sup> August, 2017**

**A.P.KILIMI- TM**

The Judgment Debtor hereinabove filed Land appeal no. 74 of 2008 at the High Court Land Division at Tanga, after being heard, this appeal was dismissed with costs, hence this bill of costs.

On 5<sup>th</sup> July, 2017 when the matter came for taxation, with the leave of the Court ,both parties agreed to argue this matter by way of written submission, both parties are applauded for having filed their written submissions within the schedule ordered by the Court. I will refer to these submission in due course when the need arises.

Before I proceed, I have perused the court record which evidenced that in Misc.Civil Application No. 70 of 2016 of the High Court at Tanga the last award was no order for costs, In view thereof, I am of the settled opinion that cost need not to be entertained by this court and I order be expunged to be dealt with in this bill of costs.

Now, in Land Appeal No. 74 of 2008 High Court Land Division at Tanga, According to the folio, under item 1 , the Decree Holder has claimed instruction fees , Tshs. 3,000,000/= have been claimed in this regard,

In his reply Judgment Debtor submitted that the decree holder failed to prove by producing legal receipts which could validate the said payments.

I have considered their arguments of both learned counsels, according to the **Advocates Remuneration Order, GN No. 264** of 2015, for the purpose of receipts and voucher, order 58 (1) states that, ***"Receipts or voucher for all disbursements charged in a bill of costs (,,,,) shall be produced at taxation if required, by the taxing officer"***.

Therefore according to my interpretation, the provision do not put it as a mandatory requirement the production of receipts or vouchers unless the Taxing officer demand for their production, nonetheless this can not affect the costs claimed since the law empowers the taxing master a discretion on taxation judiciously for the costs incurred, this is because It is a trite law the successful litigants awarded costs must be reimbursed to costs

incurred which are reasonable and fair this means also the costs should reflect the reality in terms in money for value taking regard the surrounding situation when the case was conducted. .( **see Arbogast Fundi v. Masud Zaid [1980] TLR 125** ).

In view thereof, I have considered the nature of the matter on appeal and the complexity, I am of the considered opinion that Tshs. 1,000,000/= is reasonable and fair to this item, which I accordingly tax at such amount as instruction fees.

Item 2 to 4, in these items the applicants have claimed costs for attendance, the law is clear on costs for attendance( *see schedule VIII para 23(a) of The **Advocates Remuneration Order (supra)*** ) In view thereof the same are legal and taxed as presented.

In disbursements the decree holder has claimed fees for filing reply to the appeal as disbursement and fees for obtaining copy judgment and for filing this bill, since this was not objected for not having receipts , the position remain as I have said hereinabove , although other have receipt ERV , the same is taxed as presented.

At last, the decree holder has claimed fees for attending the Taxation proceeding, In my view according to circumstances of this taxation matter, I hereby tax this part at Tshs. 100,000/= which I believe is reasonable and fair.

In conclusion thereof, the Decree Holders' Bill of Costs in total is taxed at Tshs. 1,215,500/= (one million, two hundreds and fifteen thousands and five hundreds Tshs).

Bill accordingly assessed.

**A. P. KILIMI  
TAXING MASTER  
29/08/2017**

**Court:** Ruling delivered today on 29<sup>th</sup> August, 2017 in the presence of applicant Judgment debtor also present.

**A. P. KILIMI  
TAXING MASTER  
29/08/2017**

**Court:** Right of Reference Explained.

**A. P. KILIMI  
TAXING MASTER  
29/09/2017**

