

IN THE HIGH COURT OF SIERRA LEONE
(SUPERVISORY JURISDICTION)
IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW PURSUANT TO ORDER 52
OF THE HIGH COURT RULES 2007
AND
IN THE MATTER OF AN APPLICATION FOR AN ORDER OF CERTIORARI AND
OTHER CONSEQUENTIAL ORDERS AND DIRECTIONS
AND
IN THE MATTER OF AN APPLICATION AGAINST THE MILTON MARGAI COLLEGE OF
EDUCATION AND TECHNOLOGY FOR UNLAWFUL WITHHOLDING OF THE APPLICANTS
FINAL EXAMINATION RESULTS.

BETWEEN:

EMMANUEL J. TURAY
3A NEWCASTLE STREET
FREETOWN

APPLICANT

AND

MILTON MARGAI COLLEGE OF EDUCATION
AND TECHNOLOGY (MMCET)

RESPONDENTS

THE PRINCIPAL MMCET
ALL OF GODERICH
FREETOWN

COUNSEL:

- I. S. MARRAH ESQ FOR THE PLAINTIFF/RESPONDENT
- I. I. MANSARAY ESQ FOR THE DEFENDANT/APPLICANT

RULING DELIVERED ON 7TH DAY OF OCTOBER, 2019
BY THE HONOURABLE MR JUSTICE K. KAMANDA - J

The Applicant by Judges Summons dated 18th day of March 2019 has applied to the Court for the following Orders:-

1. That the taxation review decision of the Master and Registrar of the High Court dated 13th March 20-19 be reviewed.
2. Any other Order or Orders as this Court may deem fit and just.

The application is supported by the affidavit of Augustine Marrah sworn to on the 18th March 2019. Attached to the said affidavit are the following exhibits:-

Exhibits A and B are Notice of Motion and Supporting Affidavit.

Exhibit C is a copy of the Judgment in this matter.

Exhibit D is a copy of a Certified Bill of Costs in this matter

Exhibit E is a copy of application for Review of the Tax decision of the Master.

Counsel for the Applicant A. S. Marrah esq argued that the decision of the Master as to costs as far as remuneration is concerned in the instant matter is grossly inadequate. He stated that the mode of commencement of this matter and the reliefs sought is not a common matter or application. He further stated that the matter commenced on the 24th October, 2017 and Judgment was given on the 10th October 2018 and that during the pendency of the matter arguments were heard and documents filed. He also referred to the number of times the matter was heard. Counsel submitted that the Taxing Master did not take in to consideration the guidelines submitted in view of Order 57 Rule 2 Sub Rule 3 of the High Court Rules 2007. He also referred to Order 57 Rule 4 of the High Court Rules to submit that the Taxing Master ought to have awarded costs far more than Le7,000,000/00 (Seven Million Leones) . The application is made pursuant to Order 57 Rule 15 of the High Court Rules 2007.

Counsel for the Defendant I. I. Mansaray esq is opposed to the application and relied on the affidavit in Opposition sworn to by Rev Dr Beresford M Davies sworn to on the 10th day of April 2018. He submitted that the award of costs in any action rest with the discretion of the Bench in line with certain guidelines set out in particularly Order 57 Rule 2 Sub Rules 2 and 3 of the High Court Rules 2007. Counsel argued that the proceedings was short lived and not complex. He further stated that the proceedings was by way of affidavit evidence. In essence the gravamen of Counsel's arguments and submissions is to the extent that the costs awarded is reasonable.

In my considered view the only issue before me for determination is as to whether the costs of Le7,000,000/00 (Seven Million Leones) awarded by the Taxing Master is appropriate or not in the given circumstance.

The instant application is made pursuant to Order 57 Rule 15(1) of the High Court Rules 2007 which state:-

"Any party who is dissatisfied with a decision of a taxing officer on a review under Rule 13 may apply to a Judge for an Order to review that decision either in whole or in part".

It is also very important to note that the Provision of the Law as regarded the assessment of costs is clearly dealt with in Order 57 Rule 2. In essence while determining the issue of costs though it is discretionary by the taxing officer, he must take into consideration guidelines in the aforesaid provision.

I have perused the content of exhibit D the bill of costs, presented on behalf of the Applicant. It gives a comprehensive account of the expenditure incurred by the Applicant during the course of the proceedings. I have meticulously examined the entire evidence before me and realised that the taxing Master did the calculation of all the reasonable expenditure incurred during the course of the proceedings. I have also considered the number of adjournments, the nature of work involved in the proceedings and all incidental fees. I have considered the case of National Petroleum (SL) Ltd and Shadow Mineral (SL) Ltd CC 142/2014 relied on by the Applicant to suggest that the taxing officer was unfair in the instant case. However, I must opine that the parties, facts and circumstances of the aforementioned case is distinct from the instant case. The Defendant in that case is a commercial entity while in the instant case, it is an educational institution. Secondly, the amount indicated in the bill of costs in that case is far superior to the instant case. For instance, in that case the filing of Order of Court dated 16th February 2015 and payment of 1% of the Judgment sum as indicated in item, twelve of the bill of costs is Le12,034,941.64c (Twelve Million and Thirty Four Thousand

Nine Hundred and Forty One Leones Six Hundred and Forty Five cents) that cannot be said in respect of this matter.

In my view having considered exhibit D in particular which was the bill presented by the Applicant, the taxing master acted correctly in the interest of justice. The entire evidence before shows that there is no need to overturn or review the Masters decision on taxation in this matter. In the circumstance I order as follows:-

1. That the taxation review decision of the Master is in conformity with the Law.
2. That the application for a review of the Masters decision dated 13th March 2019 lacks merit.
3. No Order as to costs.

.....

Sdg: Justice K Kamanda - J