



**Kitulu t/a Kitulu & Company Associates v China City Construction International Engineering (Kenya) Limited (Commercial Miscellaneous Application 008 of 2023) [2024] KEHC 13951 (KLR) (Commercial and Tax) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13951 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL MISCELLANEOUS APPLICATION 008 OF 2023**

**BK NJOROGE, J  
OCTOBER 31, 2024**

**BETWEEN**

**MUEMA KITULU T/A KITULU & COMPANY ASSOCIATES ..... APPLICANT**

**AND**

**CHINA CITY CONSTRUCTION INTERNATIONAL ENGINEERING (KENYA) LIMITED ..... RESPONDENT**

**RULING**

1. This Ruling is in respect of an application by way of a Notice of Motion dated 9/4/2024. The Motion seeks entry of Judgment for the taxed costs of Kshs.7,186,256.80 as per the Certificate of Taxation issued on 20/12/2023. This was after the taxation of the Advocate-Client's bill of costs.
2. The application relies upon the grounds set forth therein as well as the Supporting Affidavit of Muema Kitulu an Advocate sworn on 9/4/2024. The Deponent has attached a Certificate of Costs issued on 20/12/2023. It is signed by one Hon. Chembeni L. Adisa, a Deputy Registrar of this Court. The costs awarded are Kshs.7,186,256.80.
3. The Application is not opposed.
4. The application has been served upon the Respondent and the Court is satisfied as to the mode of service.

**Issues for determination**

5. The Court has perused the Motion and the Supporting Affidavit. Only one issue arises for determination; whether the Court should proceed to enter Judgment in favour of the Applicant as prayed.



## Analysis

6. The relevant Section of the Law is Section 51 of the [Advocates Act](#) which provides as follows;
  1. Every application for an order for the taxation of an Advocates Bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an Advocate shall be made in the matter of that Advocate.
  2. The Certificate of the Taxing Officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court be final as to the amount of the cost covered fairly and the Court may make such order in relation thereto as it finds fit, including, in a case where the retainer is not disputed, an order that Judgment be entered for the sum of certified to be due with costs.
7. Section (2) above makes it clear that the certificate of costs issued by the Taxing Master is final. This is so far as relates to the quantum of costs. It remains final until set a aside or varied by the Court.
8. The Court also refers to the case of Lubullelah & Associates Advocates -vs- N.K. Brothers Limited [2015] eKLR. The Court observed the following;

“The Law is very clear that once a Taxing Master has taxed costs, issued a Certificate of Costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and or altered, no other action would be required from the Court save to enter Judgement.”
9. As earlier stated, the application is not opposed. The Court is persuaded that the Applicant is deserving of the orders prayed for.
10. The Applicant has prayed for interest at 14% from 8<sup>th</sup> December, 2022 until payment in full. The same is equally allowed.
11. The costs of the application which is unopposed are awarded to the Applicant, assessed at Kshs.25,000/-.

## Determination

12. The Application by way of a Notice Motion dated 9/4/2024 is allowed in the following terms.
  - a. Judgment is entered for the Applicant against the Respondent for costs of Kshs.7,186,256.80
  - b. Interest is awarded on the said sum at 14% p.a with effect from 8/12/2022 until payment in full.
  - c. The costs of the application is awarded to the Applicant assessed at Kshs.25,000/-.
13. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 31<sup>ST</sup> DAY OF OCTOBER, 2024.**

**NJOROGE BENJAMIN. K**

**JUDGE**

In the presence of: -

..... for the Applicant

..... for the Respondent

Court Assistant: .....

