



**Muri Mwaniki & Wamiti Advocate v Monarch Insurance
Company Limited (Miscellaneous Civil Application E704 of 2021)
[2024] KEHC 13882 (KLR) (Commercial and Tax) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13882 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS CIVIL APPLICATION E704 OF 2021
BK NJOROGE, J
OCTOBER 31, 2024**

BETWEEN

MURI MWANIKI & WAMITI ADVOCATE APPLICANT

AND

THE MONARCH INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. Ruling is in respect of the Application by way of Notice of Motion dated 26th February, 2024. It seeks orders that Judgment be entered for the Applicant against the Respondent for the sum of Kshs.213,704/-. This is in respect of costs as taxed and certified by the Deputy Registrar on 6th November, 2023.
2. The Applicant also seeks interest on the said costs at the rate of 14% per annum with effect from 28th October, 2021 until payment in full.
3. Lastly, the Applicant s seeks the costs of the application.
4. The Application is supported by the Affidavit of Martin G. Mwaniki An Advocate who is a partner with the Applicant. The Affidavit was sworn on 26/2/2024. The deponent avers that he has obtained a certificate of Taxation issued the Hon. Chembeni L. ADISA dated 6/1/2023. The Applicant submitted that the Respondent has never appeared in this matter despite being served.
5. Directions were issued on 2/7/2024 that the matter be canvassed by way of written submissions.
6. The same was flagged for the Rapid Results Initiative (RRI) for the month of October, 2024.



Issues for determination

7. Only one issue arises for determination. Whether the Applicant is entitled to the judgement on costs as prayed?.
8. The application is not opposed.
9. Section 51 of the *Advocates Act* provides as follows;
 1. “Every application for an Order for the Taxation of an advocate’s bill or for the delivery of such a bill and the delivering up of any deeds documents and prayers by an Advocate shall be made in that matter of that Advocate.
 2. The certificate of the taxing officer by whom any bill has been taxed shall, until it is set aside or altered by the Court, be final as to the amount of costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed an order that Judgment be entered for the sum certified to be due with cost.”
10. In *Lubullelah & Associates Advocates -vs- N.K. Brokers Ltd* [2015] eKLR the Court observed the following;

“The Law is very clear that once a taxing master has taxed the costs, issued a certificate of costs, and there is no reference against his ruling or there has been a ruling and determination made and not set aside and/or altered, no other action would be required from the Court save to enter Judgement.”
11. This application is unopposed. The certificate of costs issued by the Taxing Master has not been set aside or varied.
12. The Court is persuaded to grant the orders as prayed including interest. The interest shall be at the rate of 14% p.a. from 28/10/2021 being the date one (1) month after the date of service of the Bill of costs upon the Respondent.
13. The costs of the unopposed application are hereby assessed at Kshs.20,000/- and the same are awarded to the Applicant

Determination

14. The Application dated 26/2/2024 is allowed in the following terms;
 - a. Judgment is entered for the Applicant against the Respondent for the sum of Kshs.2,131,704/- being costs certified by the Deputy Registrar on 6/11/2023.
 - b. Interest is awarded on the said sum at the rate of 14% p.a. from 28/10/2021 until payment in full.
 - c. The costs of the motion of Kshs.20,000/- are awarded to the Applicant
15. It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 31ST DAY OF OCTOBER, 2024.

NJOROGE BENJAMIN. K

JUDGE



In the presence of: -

.....for the Applicant

.....for the Respondent

Court Assistant:

