



**Kinyanjui Njuguna & Comapny Advocates v Invesco Assurance
Company Limited (Miscellaneous Application E059 of 2019)
[2024] KEHC 14770 (KLR) (Commercial and Tax) (27 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14770 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E059 OF 2019**

**A MABEYA, J
NOVEMBER 27, 2024**

BETWEEN

KINYANJUI NJUGUNA & COMAPNY ADVOCATES ADVOCATE

AND

INVESCO ASSURANCE COMPANY LIMITED CLIENT

RULING

1. Before Court is the Advocate's application dated 18/10/2023. The same was brought under Order 51 rule 1 of the Civil Procedure Rules, section 48 &52 of the Advocates Act CAP 16 and rule 7 of the Advocates Remuneration Order 2014. It sought judgment for Kshs. 284,078/- together with interest at 14% per annum from 13/09/2019.
2. The applicant relied on the grounds on the face of the Motion and the supporting affidavit of Kinyanjui Theuri sworn on 18/10/2023. He stated that the Advocate/client bill of costs had been taxed at Kshs. 284,078/- and a certificate of taxation was signed and issued by the taxing master. That the respondent was facing liquidity issues and has since not paid the legal fees duly earned. He stated that the respondent did not dispute the fees and the interest was payable at 14% per annum.
3. The respondent filed a replying affidavit dated 8/3/2024 sworn by Sylvia Makassy. She stated that the taxing master did not award the interest claimed by the applicant and the applicant did not demonstrate that the taxing master erred in taxing the bill. That the decision of the taxing master should not be disturbed as the certificate of costs is final as to the amount due.
4. The parties did not file any submissions. I have considered the pleadings on record and the issue for determination is whether judgment should be entered as per the certificate of taxation. Under section



51(2) of the *Advocates Act* Cap 16 (Laws of Kenya), the Court has the power to enter judgment on taxed costs. It provides that: -

“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 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 costs.”

5. In light of this provision, the certificate of taxation once issued by the taxing master is final unless it is set aside or altered. In *Lubullellah & Associates Advocates v N. K. Brothers Limited* [2014] eKLR, the court stated this position as follows: -

“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 a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for the recovery of costs.”

6. Further, in *Musyoka & Wambua Advocates versus Rustam Hira Advocate* (2006) eKLR, it was held that: -

“Section 51 of the Act makes general provisions as to taxation, as the marginal note indicates. One of those provisions is that the court has discretion to enter judgment on a Certificate of Taxation which has not been set aside or altered, where there is no dispute as to retainer. This in my view is a mode of recovery of taxed costs provided by law, in addition to filing of suit ...”

7. In the present case, the deputy registrar issued a certificate of taxation dated 12/3/2020 where the advocates costs were taxed at Kshs. 284,078/-. Having carefully considered the pleadings, it is clear that the Certificate of Costs that was issued by the Taxing Officer had not been set aside and/or altered. Indeed, no reference has been preferred under Paragraph 11 of the *Advocates Remuneration Order* to challenge the said decision. It is also evident that the Client was not opposed to the adoption of the taxed costs as a judgment. It only challenged the interest sought.

8. The applicant prayed for interest at 14% per annum. The Client refuted this stating that interest was not awarded. rule 7 of the *Advocates Remuneration Order* allows an advocate to charge interest on his costs and disbursements as follows: -

“An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.”

9. The aforementioned provision stipulates that an advocate may charge interest at 14% per annum on his disbursements and costs, whether by scale or otherwise, from the expiry of one month from the delivery of his bill to the client, providing such claim for interest is raised before the amount has been paid or tendered in full. In line with this provision, I find that the advocate is entitled to the interest claimed.

10. Accordingly, I find the application to be meritorious and allow the same as prayed.



DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF NOVEMBER, 2024.

A. MABEYA, FCI Arb

JUDGE

