



**Kabiru & Company Advocates v Oyie (Miscellaneous Civil Case  
E004 of 2023) [2024] KEHC 14763 (KLR) (26 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14763 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAROK  
MISCELLANEOUS CIVIL CASE E004 OF 2023  
F GIKONYO, J  
NOVEMBER 26, 2024**

**BETWEEN**

**KABIRU & COMPANY ADVOCATES ..... APPLICANT**

**AND**

**PHYLIS OYIE ..... RESPONDENT**

**RULING**

**Judgment on certificate of costs**

1. The Notice of Motion dated 14/08/2024, prays for judgment to be entered for the applicant against the respondent in the sum of Kshs. 136,656.80 being the amount of costs taxed in the certificate of taxation dated 13/03/2024 together with interest thereon at court rate from 13/03/2024 until payment in full.
2. The applicant also sought for costs of the application.
3. The application is premised upon section 51(2) of the *Advocates Act*, and Order 51 Rule 1 of the Civil Procedure Rules, 2010. And, is based on the grounds set out in the application and the supporting affidavit of HENRY KABIRU, an advocate of the high court of Kenya sworn on 14/08/2024.

**The response.**

4. The respondent did not file any replies despite having been served.

**Directions of the court**

5. The applicant relied on the papers filed which the court should consider and determine the application.



## Analysis And Determination

6. The respondent did not file any response despite being served- as evidenced by the affidavit of service sworn on 16/08/2024 by Peter Muendo Keli. Nonetheless, the application shall be determined on merit.

## Issues

7. This court has considered the pleadings, evidence, and the applicable law.
8. The issues for determination are: -
  - a. Whether the certificate of the taxing officer by whom the advocate-client bill of costs was taxed herein is final as to the amount of the costs covered thereby;
  - b. And whether the Court may order that judgment be entered for the sum certified to be due with costs and interest.

## Applicable law

9. Section 51(2) of the *Advocates Act* 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.’
10. Rule 7 of the Advocates (Remuneration) Order provides that: -

‘An advocate may charge interests at 14% per annum on his disbursement and costs whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, such claim for interests is raised before the amount of the bill has been paid or tendered in full.’
11. The taxing officer taxed the advocate-client bill of cost dated 08/02/2023 on 19/01/2024 at Kshs. 136,656.80 against the respondent, and issued a certificate of taxation on 13/03/2024.
12. The said certificate of cost has neither been appealed against nor set aside, or altered by the Court. In particular, there is no reference under paragraph 11 of the Advocates Remuneration Order challenging the decision of the taxing master. Making the certificate of costs final as to the amount of the costs covered thereby.
13. Despite being served with, and aware that the said bill of costs has not been satisfied, the respondent has not settled the taxed amount of costs in the sum of Kshs. 136, 656.80. As a consequence, the applicant claims deprivation of its rightful dues, hence, the application herein.
14. The respondent did not file any response opposing entry of judgment as per the certificate of taxation or disputing the retainer.
15. Therefore, this court makes a finding that, the certificate of the taxing officer is final as to the amount of the costs covered thereby.



16. The requisite period from the delivery of the bill to the client has lapsed and a claim for interests has been raised before the amount of the bill has been paid or tendered in full, justifying award of interest.
17. Costs follow the event. The respondent has not satisfied the certified costs despite delivery of the bill. The applicant is the successful party-success being in the entry of judgment on the certificate of taxation- the applicant is, therefore, entitled to costs.

### **Disposition**

18. In the upshot, the Notice of Motion dated 14/08/2024 is merited and is hereby allowed in the following terms: -
  - a. Judgment be and is hereby entered in favour of the applicant in the sum of Kshs. 136,656.80/= in accordance with the certificate of taxation, together with interest thereon at fourteen (14%) percent per annum from 13/03/2024 until payment in full.
  - b. Costs of this application is awarded to the applicant.
19. Orders accordingly.

**DATED, SIGNED, AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION, THIS 26<sup>TH</sup> DAY OF NOVEMBER, 2024.**

**F. GIKONYO M**

**JUDGE**

In the presence of: -

Ndung'u h/b for Kabiru for applicant

N/A for respondent

Otolo C/A

