



**J.G. Kariuki t/a Gachiri Kariuki & Company Advocates v Invesco Assurance Company Limited
(Miscellaneous Civil Application 77 of 2022) [2023] KEHC 350 (KLR) (30 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 350 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CIVIL APPLICATION 77 OF 2022**

OA SEWE, J

JANUARY 30, 2023

BETWEEN

**J.G. KARIUKI T/A GACHIRI KARIUKI & COMPANY
ADVOCATES PLAINTIFF**

AND

INVESCO ASSURANCE COMPANY LIMITED DEFENDANT

RULING

1. Before the court for determination is the notice of motion dated February 25, 2022. It was filed by advocate J G Kariuki, t/a Gachiri Kariuki & Co Advocates pursuant to section 51 (2) of the Advocates Act, chapter 16 of the Laws of Kenya as well as sections 1A, 1B, 3 and 3A of the Civil Procedure Act, chapter 21 of the Laws of Kenya and order 51 rule 1 of the Civil Procedure Rules, for orders that:
 - a. The various taxed matters between the advocate/applicant and the client/respondent as listed at paragraph 1 of the said application be consolidated for expedient disposal.
 - b. Judgment be entered in favour of the advocate/applicant in the sum of Kshs 3,835,131.77 plus interest thereon at court rates from the date hereof until full payment.
 - c. Costs of the application be provided for in the sum of Kshs 20,000/= per certificate of costs.
2. The application was based on the grounds that outstanding legal fees between the applicant and the respondent have been taxed and certified by the court in various miscellaneous applications whose sum total comes to Kshs 3,835,131.77, and that the court has issued certificates of costs in those matters. It was further the contention of the applicant that, he has served the respondent with the certificates of costs through its head office in Nairobi, but that the respondent has failed and/or neglected to satisfy the certificates; thereby rendering the filing of this application necessary.



3. The application was supported by the affidavit of John Gachiri Kariuki, advocate. He deposed that his firm, M/s Gachiri Kariuki & Company Advocates, was instructed by the respondent to represent it in various civil matters; and upon failure to pay his legal fees on demand, he filed advocate/client bills of costs and the same were taxed as per the list of 55 miscellaneous applications appended to paragraph 1 of the applicant's notice of motion dated February 25, 2022. He annexed to his supporting affidavit copies of each of the individual certificates of costs as annexure "JGK 1".
4. Thus, Mr Kariuki prayed that, since the matters all arise out of similar facts and issues of law, it is only fair, just, prudent and expedient that they be consolidated for purposes of this application. He also prayed that judgment be entered in his favour in the total sum of the certificates, being Kshs 3,835,131.77 plus costs and interest.
5. Although the application was duly served on the respondent, no response was filed thereto by the company. The matter was consequently listed for hearing on May 9, 2022 and directions given that hearing notice be served on the respondent; which was done by the applicant. The respondent did not attend court for hearing on May 9, 2022 in spite of service; whereupon hearing proceeded *ex parte* in the presence of counsel for the applicant, Mr Origi.
6. I have considered the application and the grounds upon which it was predicated. Having perused the averments set out in the supporting affidavit and the certificates of costs annexed thereto, i am satisfied that a justification has been made to warrant the issuance of the orders sought. In the premises, it is hereby ordered that:
 - a. The various taxed matters between the applicant and respondent as aforementioned be and are hereby consolidated for expedient disposal.
 - b. Judgment be and is hereby entered in favour of the applicant on the basis of the certificates of costs exhibited herein in the total sum of Kshs 3,835,131.77 together with interest thereon at court rates from the date hereof until full payment.
 - c. Costs of the application, to be approved by the deputy registrar, be borne by the respondent.
7. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT MOMBASA THIS 30TH DAY OF JANUARY 2023.

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OLGA SEWE

JUDGE

