



**Mbugwa, Atudo & Macharia Advocates v Kenya Alliance Insurance Co. Ltd (Miscellaneous Civil Application E022 of 2022) [2023] KEHC 2381 (KLR) (28 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2381 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT HOMA BAY  
MISCELLANEOUS CIVIL APPLICATION E022 OF 2022**

**KW KIARIE, J  
MARCH 28, 2023**

**BETWEEN**

**MBUGWA, ATUDO & MACHARIA ADVOCATES ..... APPLICANT**

**AND**

**KENYA ALLIANCE INSURANCE CO. LTD ..... RESPONDENT**

**RULING**

1. The applicant moved the court by way of notice of motion dated October 17, 2022 under sections 51 (2) of the *Advocates Act* & schedule 7 of the *Advocates Remuneration Order* as well as under Order 51 Rule 1 of the *Civil Procedure Rules, 2010*. The applicant is seeking the following orders:
  - a. That judgment be and is hereby entered or Kshs 427,930/- for the taxed advocate/client bill of costs as contained in the Certificate of Costs dated July 8, 2022 with interest thereon at the rate of 14% per annum with effect from April 16, 2018 until payment in full.
  - b. That costs of the application be and is herein be awarded to the advocate/applicant.
2. The application is premised on the following grounds:
  - a. That the advocate/applicant was issued with a certificate of costs of his costs in Homa Bay HCCA No 12 of 2016 in the matter The Kenyan Alliance Insurance Co. Ltd vs Benard Okeyo Ajwang.
  - b. That the Certificate of Costs dated July 8, 2022 had neither been settled no has it been set aside and or varied through an order of this honorable court.
  - c. That there is no dispute on retainer between the parties.
  - d. That despite demand, the advocate/applicant has been denied legal fees, disbursements and other related expenses by the respondent for an extended period of time and the monetary



value of the legal fees has been grossly eroded by the incidence of inflation over the years, hence the advocate/applicant's claim for interest.

- e. That it is in the interest of justice that the orders sought herein be granted.
3. The respondent was served but did not respond to the application.
4. I have perused the record and the supporting affidavit of Pinto Nelson Atudo. I find the application has merits. The same is allowed with costs.

**DELIVERED AND SIGNED AT HOMA BAY THIS 28<sup>TH</sup> DAY OF MARCH, 2023**

**KIARIE WAWERU KIARIE**

**JUDGE.**

