



**Magatta & Njogu Advocates v Trident Insurance Co. Ltd (Miscellaneous Civil Application E007 of 2022) [2023] KEHC 3677 (KLR) (27 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3677 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
MISCELLANEOUS CIVIL APPLICATION E007 OF 2022**

**GL NZIOKA, J  
APRIL 27, 2023**

**BETWEEN**

**MAGATTA & NJOGU ADVOCATES ..... APPLICANT**

**AND**

**TRIDENT INSURANCE CO. LTD ..... RESPONDENT**

**RULING**

1. The subject application herein is dated August 4, 2022 brought under the provisions of section 51(1) and (2) of the *Advocates Act* (cap 16) Laws of Kenya, and all enabling provisions of the law.
2. The applicant is seeking for orders that: -
  - a. That judgment be entered against the Respondent for the sum of Kshs. 242,488 only, in the terms of the Certificate of Costs dated August 3, 2022.
  - b. That interest thereon be awarded at court rates from April 14, 2022 till payment in full.
  - c. The cost of the application be awarded to the applicant.
3. The application is supported by the grounds thereto and the affidavit of even date sworn by Owen Magatta, an Advocate of the High Court practising as such in the applicant's firm. He avers that on November 24, 2017 the respondent instructed the applicant's firm to defend it in Naivasha CMCC No. 321 of 2017. However, since 14<sup>th</sup> August 2022, the respondent has refused to pay the legal fees necessitating the filing of the advocates bill of costs dated January 28, 2022.
4. That, the Deputy Registrar delivered her ruling on July 28, 2022 where she taxed the bill of costs at Kshs. 242,488 and a certificate of costs was issued on August 3, 2022. He states that, the taxed costs ought to be adopted as judgment of the court.



5. The application was served but no response was filed and therefore it follows that, the application is unopposed. In considering the same I note that, the provision of section 51(2) of the Advocates Act, states as follows: -

“The certificate of a taxing officer by whom it has been taxed shall, unless 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 costs.”

6. In that regard I note that the applicant has produced evidence of instructions from the respondent dated 24th November, 2017 to the applicant to represent it in CMCC No. 321 of 2017, the taxed bill of costs dated January 28th, 2022 and the resultant certificate of costs dated August 3rd, 2022. The same has not been set aside and neither is there a dispute on retainer. In that case I find that the application has merit and I allow it as prayed.

7. It is so ordered.

**DATED, DELIVERED AND SIGNED ON THIS 27<sup>TH</sup> DAY OF APRIL 2023**

**GRACE L. NZIOKA**

**JUDGE**

**In the presence of:**

Mr. Magatta for the Applicant

N/A for the Respondent

Ms Ogutu; Court Assistant

