



**Kinyanjui Njuguna & Co Advocates v Invesco Assurance Company Limited  
(Miscellaneous Civil Application 73, 75, 76, 77, 81, 82, 87, 88, 89, 90, 91,  
92,93,94,95,96,97 & 98 of 2019) [2023] KEHC 19391 (KLR) (30 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19391 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
MISCELLANEOUS CIVIL APPLICATION 73, 75, 76, 77,  
81, 82, 87, 88, 89, 90, 91, 92,93,94,95,96,97 & 98 OF 2019**

**GL NZIOKA, J**

**JUNE 30, 2023**

**BETWEEN**

**KINYANJUI NJUGUNA & CO ADVOCATES ..... APPLICANT**

**AND**

**INVESCO ASSURANCE COMPANY LIMITED ..... RESPONDENT**

**RULING**

1. By a notice of motion application dated April 28, 2023, brought under the provisions of Order 51 rule 1 of the Civil Procedure Rules, section 48 and 51(2) of the Advocates Act, and Rule 7 of the Advocates (Remuneration) Order, the applicant is seeking for the following orders: -
  - a. That the Honourable court be pleased to consolidate the instant matter with:-
    - Naivasha Miscellaneous Application No 96 of 2019
    - Naivasha Miscellaneous Application No 90 of 2019
    - Naivasha Miscellaneous Application No 77 of 2019
    - Naivasha Miscellaneous Application No 95 of 2019
    - Naivasha Miscellaneous Application No 94 of 2019
    - Naivasha Miscellaneous Application No 98 of 2019
    - Naivasha Miscellaneous Application No 97 of 2019
    - Naivasha Miscellaneous Application No 92 of 2019
    - Naivasha Miscellaneous Application No 93 of 2019



Naivasha Miscellaneous Application No 91 of 2019  
Naivasha Miscellaneous Application No 73 of 2019  
Naivasha Miscellaneous Application No 225 of 2019  
Naivasha Miscellaneous Application No 89 of 2019  
Naivasha Miscellaneous Application No 82 of 2019  
Naivasha Miscellaneous Application No 88 of 2019  
Naivasha Miscellaneous Application No 87 of 2019  
Naivasha Miscellaneous Application No 75 of 2019  
Naivasha Miscellaneous Application No 76 of 2019

- b. That pursuant to prayer (a) above the Honourable court be pleased to enter judgment/decree for Kshs 1,589,968 tabulated as hereunder;

Naivasha Misc Application No 81 of 2019; Kshs 74,658  
Naivasha Misc Application No 96 of 2019; Kshs 48,858  
Naivasha Misc Application No 90 of 2019; Kshs 190,965  
Naivasha Misc Application No 77 of 2019; Kshs 74,733  
Naivasha Misc Application No 95 of 2019; Kshs 49,322  
Naivasha Misc Application No 94 of 2019; Kshs 149,322  
Naivasha Misc Application No 98 of 2019; Kshs 49,322  
Naivasha Misc Application No 97 of 2019; Kshs 45,610  
Naivasha Misc Application No 92 of 2019; Kshs 51,110 Naivasha Misc Application No 93 of 2019; Kshs 51,110 Naivasha Misc Application No 91 of 2019; Kshs 47,630 Naivasha Misc Application No 73 of 2019; Kshs 52,692  
Naivasha Misc Application No 225 of 2019; Kshs 107,793  
Naivasha Misc Application No 89 of 2019; Kshs 123,784  
Naivasha Misc Application No 82 of 2019; Kshs 97,494 Naivasha Misc Application No 88 of 2019; Kshs 168,241 Naivasha Misc Application No 87 of 2019; Kshs 58,370  
Naivasha Misc Application No 75 of 2019; Kshs 70,301  
Naivasha Misc Application No 76 of 2019; Kshs 78,793  
Total Kshs 1,589,968

- c. That interest be provided for at 14% per annum from 7/11/2018 until payment in full.
- d. That the cost of the application be awarded to applicant

2. The application is supported by the grounds on the face of it and an affidavit sworn by Kinyanjui Theuri an advocate of the High Court of Kenya and partner in the applicant's firm. He deposes that,



the subject matters relate to the same parties and involve similar claims for legal fees and therefore consolidation is necessary for expeditious disposal.

3. That, the applicant's bill of costs in the subject matters have been taxed and certificates of taxation drawn, signed and issued. Further, although the respondent does not dispute the fact that the fees, claimed is due and payable, it has continuously failed to pay the same despite demand and notice.
4. That, an advocate is legally entitled to fees earned in the course of his services in line with the advocates remuneration order. Thus the instant application is made in the sole interest and due realization of that legal fees.
5. Furthermore, that interest is payable at fourteen percent (14%) per annum from the date of demand and service of notice to settle the legal fees. That, if the court fails to grant the orders sought, the applicant will be prejudiced as the respondent is facing liquidity crisis.
6. Upon considering the application, the court ordered that, the same be served for directions inter parties on May 24, 2023. On the material date, Ms. Ogutu appeared in court on behalf of the respondent and sought time to file a response. The Court gave the respondent seven (7) days to file its response and set a hearing date on June 14, 2023.
7. However, when the matter came up for hearing on June 14, 2023, the respondent was not in court, despite the date having been given in its advocate's presence. In that case the application was heard unopposed.
8. Be that as it were, I have considered the application in the light of the materials availed in support thereof. Indeed, the applicable is found under section 51(2) of the Advocates Act, (Cap 16) Laws of Kenya, which states that: -

“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.”

9. In that regard I note that the applicant has produced evidence of the certificates of taxation issued in the respective files dated as follows:
  - a. February 7, 2022: Naivasha miscellaneous application No 225 of 2019;
  - b. September 9, 2022: Naivasha miscellaneous application No 73 of 2019; and
  - c. April 25, 2023: Naivasha miscellaneous application No(s). 77, 81, 89, 90, 91, 92, 93, 94, 95, 96, 97 and 98 of 2019.
  - d. May 5, 2023: Naivasha miscellaneous application No(s). 75, 76, 82 and 88 of 2019
  - e. May 8, 2023: Naivasha miscellaneous application No 87 of 2019
10. It is also noteworthy that the respective certificates of taxation have not been set aside nor varied and neither is there a there a dispute on retainer in the respective matter, therefore there is no justification to decline to issue orders as prayed for in prayers (1) and (2).
11. However, I note that Naivasha Miscellaneous Application No 225 of 2019 was included and dealt with in Naivasha Miscellaneous Application No 224 of 2019. Hence the orders herein shall exclude



the amount Kshs 107,739 due in Naivasha miscellaneous application No 225 of 2019 bringing the total amount payable as Kshs 1,482,229.

12. As regards prayer (3) on interest, it suffices to note that the provisions of section 51 (2) do not provide for interest. However, Rule 7 of the *Advocates Remuneration Order* provides that: -

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.

13. However, I note that the certificates of taxation were issued in the different years, as indicated above as such the applicant can only get interest from the date of the respective certificate and service thereof subject to proof thereof. The costs of this application is awarded to the applicant.

14. It is so ordered.

**DATED, DELIVERED AND SIGNED ON THIS 30<sup>TH</sup> DAY of JUNE, 2023.**

**GRACE L. NZIOKA**

**JUDGE**

**In the presence of;**

Mr. Khisa for the applicant

N/A for the respondent

Ms. Ogutu court assistant

