



**Kinyanjui Njuguna & Co Advocates v Invesco Assurance Company Limited  
(Miscellaneous Civil Application 121, 192, 193, 223, 224, 225, 226 & 227 of 2019  
(Consolidated)) [2023] KEHC 19599 (KLR) (30 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19599 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
MISCELLANEOUS CIVIL APPLICATION 121, 192, 193,  
223, 224, 225, 226 & 227 OF 2019 (CONSOLIDATED)**

**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 28<sup>th</sup> February 2022, 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. 224 of 2019
    - Naivasha miscellaneous application No. 223 of 2019
    - Naivasha miscellaneous application No. 225 of 2019
    - Naivasha miscellaneous application No. 226 of 2019
    - Naivasha miscellaneous application No. 227 of 2019
    - Naivasha miscellaneous application No. 121 of 2019
    - Naivasha miscellaneous application No. 192 of 2019
    - Naivasha miscellaneous application No. 193 of 2019



b) That, pursuant to prayer (a) above the Honourable court be pleased to enter judgment/decreed in the sum of; Kshs 836,401 as tabulated hereunder: -

Naivasha misc. application No. 224 of 2019; Kshs 76,862

Naivasha misc. application No. 223 of 2019; Kshs 48,169

Naivasha misc. application No. 225 of 2019; Kshs 107,793

Naivasha misc. application No. 226 of 2019; Kshs 71,717

Naivasha misc. application No. 227 of 2019; Kshs 65,497

Naivasha misc. application No. 121 of 2019; Kshs 180,061

Naivasha misc. application No. 192 of 2019; Kshs 90,400

Naivasha misc. application No. 193 of 2019; Ksh 195,902

Total: Kshs 836,401

c) That, interest be provided for at 14% per annum from 9/11/2019 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 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, has continuously failed to pay the same despite demand and notice.
4. That, an advocate is legally entitled to fees for 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 the legal fees earned.
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 9<sup>th</sup> March 2023. On the material date, Mr. Karanja appeared in court on behalf of the respondent and requested for time to peruse the court file. The Court granted the request and ordered the respondent to file its response within fourteen (14) days.
7. However, when the matter came up for hearing on 14<sup>th</sup> June 2023, the respondent was not in court, despite having been served as evidenced by an affidavit of service dated; 25<sup>th</sup> May 2023 served by Brian Kiptoo, the process server. 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) 7<sup>th</sup> February 2022: Naivasha miscellaneous application No(s) 225, 226, 227 and 121 of 2019; and
- b) 22<sup>nd</sup> February 2022: Naivasha miscellaneous application No (s) 223, 224, 19 and 193 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. 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.

12. However, I note that the certificates of taxation were issued in the year 2022. The applicant can only get interest from the date of service of the same upon the respondent and not the year claimed herein. Therefore, interest is payable from the aforesaid date and subject to proof thereof. The costs of this application is awarded to the applicant.

13. 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

