



**Joe Ngigi & Company Advocates LLP v Kenyan Alliance
Insurance Company Limited (Miscellaneous Civil Application
E245 of 2022) [2023] KEHC 21939 (KLR) (27 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 21939 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISII
MISCELLANEOUS CIVIL APPLICATION E245 OF 2022**

**PN GICHOHI, J
JULY 27, 2023**

BETWEEN

JOE NGIGI & COMPANY ADVOCATES LLP APPLICANT

AND

KENYAN ALLIANCE INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. The Applicant has moved this court by way of a Notice of Motion dated January 16, 2023 brought under Section 51 (2) of the *Advocates Act*. The Advocate /Applicant seeks orders that judgment be entered in his favour for the sum of Kshs 93,900/= being the certified costs due to the Applicant against the Respondent. He also seeks costs of this application together with interest on the taxed sum from the date of taxation.
2. In the affidavit sworn on January 16, 2023 by Joseph N. Ngigi, the Applicant states that after the Respondent instructed him to act for the Defendant in Kisii CMCC No 735 of 2021 Japhet Nyagoe Maroko v Peter Okero Nyatara. The Respondent failed to pay the Applicant his legal fees thus necessitating the Applicant to file a Bill of Costs dated October 18, 2022. The Bill was taxed and a Certificate of Costs duly issued. The Respondent refused and /or neglected to pay and hence this application.

Determination

3. I have considered this application and the annexures thereto which confirm that there is a Certificate of Taxation for Kshs 93,900/= dated January 10, 2023. From the Court record and annexures thereto, the Applicant duly acted for the Respondent in the above stated case.



4. The Applicant filed the Advocate/Client Bill of Costs dated October 18, 2022 and a notice was duly served on the Respondent but he did not respond or attend court for the taxation. The Bill was therefore not challenged.
5. Though served with this application, the Respondent did not file any response and did not attend court. The Certificate of Costs has not been set aside and there are no outstanding proceedings to set it aside.
6. Section 51 (2) of the [Advocates Act](#) provides that:

“The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the 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.”
7. In the circumstances, this Certificate of Taxation dated January 10, 2023 is therefore final and, in the circumstances, the Applicant should be allowed to enjoy the fruits of his labour.
8. Further, paragraph 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.”
9. The application dated 1 January 6, 2023 is allowed in the following terms:-
 1. Judgment be and is hereby entered in favour of the Applicant as against the Respondent in the sum of Kshs 93,900/= together with interest thereon at fourteen (14%) per cent per annum calculable after Thirty (30) days from the date when this application was served upon the Respondent until payment in full.
 2. The Applicant is at liberty to execute the same as against the Respondent.
 3. Costs are awarded to the Applicant.

DATED, SIGNED AND DELIVERED THROUGH MICROSOFT TEAMS AT KISII THIS 27TH DAY OF JULY , 2023.

PATRICIA GICHOHI

JUDGE

In the presence of:

N/A for Advocate/Applicant

N/A for the Client/Respondent

Kevin Isindu, Court Assistant

