



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**MISC. APPLICATION NO. 375 OF 2019**

**MAGATT & ASSOCIATES ADVOCATES.....APPLICANT**

**-VERSUS-**

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

**RULING**

1) The subject matter of this ruling is the motion dated 10<sup>th</sup> March 2020 taken out by the Magatta & Associates, the applicant herein, seeking to have entry of judgment against Trident Insurance Co. Ltd, the respondent herein, in the sum of kshs.171,635/= being taxed costs in terms of the certificate of taxation dated 2<sup>nd</sup> March 2020.

2) The applicant further sought for costs and interest at court rates. The applicant filed the affidavit sworn by Owen Magatta in support of the motion. The applicant was granted leave to prosecute the motion exparte when the respondent failed to attend the interpartes hearing and when it also failed to file a response to the motion.

3) I have considered the grounds stated on the motion and the facts deponed in the supporting affidavit. The applicant avers that it was instructed by the respondent to defend it in Nairobi C.M.C.C. no. 3251 of 2013 with a promise to settle its legal fees.

4) The applicant argued that it was forced to file an Advocates Bill of Costs dated 9<sup>th</sup> May 2019. When the respondent refused to settle the applicant’s legal fees. The Advocates Bill of costs was taxed at ksh.171,635/= which amount the applicant seeks to be entered as a judgment sum.

5) Having considered the grounds put forward plus the facts deponed in the supporting affidavit, it is not in dispute that the applicant’s Bill of Costs was taxed at ksh.171,635/= and a certificate of costs was issued by the Deputy Registrar on 2<sup>nd</sup> March 2020.

6) There is no evidence to show that the respondent has filed a reference to challenge the taxed costs. Under Section 51(2) of the Advocates Act, the applicant is entitled to seek for entry of judgment in terms of the amount stated on the certificate of costs.

7) In the end, I find the motion dated 10<sup>th</sup> March 2020 to be meritorious hence it is allowed. Consequently, judgment is entered for the applicant and against the respondent in the sum of ksh.171,635/= plus interest at court rates from 2<sup>nd</sup> March 2020 until the date of full payment. The applicant is awarded costs of the motion assessed at ksh.15,000/=.

**Dated, Signed and Delivered online via Microsoft Teams at Nairobi this 18<sup>th</sup> day of February, 2022.**

.....

**J. K. SERGON**

**JUDGE**

In the presence of:

..... for the Applicant

..... for the Respondent