



**KMK Law LLP Advocates v Kanuri Limited (Miscellaneous Civil Application E228 of 2022)  
[2022] KEHC 13283 (KLR) (Commercial and Tax) (30 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13283 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
MISCELLANEOUS CIVIL APPLICATION E228 OF 2022**

**DAS MAJANJA, J  
SEPTEMBER 30, 2022**

**BETWEEN**

**KMK LAW LLP ADVOCATES ..... APPLICANT**

**AND**

**KANURI LIMITED ..... RESPONDENT**

**RULING**

1. The application before the court is dated March 23, 2021 seeking judgment by the advocates against the respondent for kshs 1,905,082.50 based on the certificate of taxation dated March 18, 2022 with interest at 14% per annum from May 7, 2021 under section 51(2) of the Advocates Act (Chapter 16 of the Laws of Kenya). The application is supported by the affidavit of Muguro Irungu, an advocate, sworn on March 23, 2022.
2. The respondent opposes the application through the replying affidavit of its managing director, Bildad Kagai, sworn on July 12, 2022. He opposes the application on the ground that the ruling giving rise to the certificate of taxation did not include any specification on interest and that if any interest is charged it is to be charged from June 8, 2022 as per rule 7 of the Advocates Remuneration Order being one month after expiry of service of the bill of costs on the respondent. The respondent further complains that the ruling did not give the respondent credit for the amount paid by the respondent. The respondent avers that the legal fees should be shared between it and 33 other clients who had engaged the advocates to represent them in HCCC No 356 of 2016.
3. The advocates have based their plea for judgment on section 51(2) of the Advocates Act which states as follows:

51 (2) The certificate of the taxing officer by whom a 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.

4. The objections raised by the respondent must be adjudged against the aforesaid provision whose effect is that the certificate of taxation is conclusive as to the amount certified therein. Further, a party who wishes to challenge the certificate of taxation has the right to file a reference from the decision of the deputy registrar under paragraph 11 of the [Advocates Remuneration Order](#). The only dispute the court can consider at this stage is whether there is a retainer as between the advocate and respondent.
5. As regards the argument that the deputy registrar did not give the respondent credit for money already paid to the advocates, I hold that the issue ought to have been raised before the deputy registrar as it was part of the determination of the quantum of fees due to the advocate. If the deputy registrar failed to consider it, then it ought to be the subject of a reference.
6. The respondent does not challenge the retainer between it and the advocates. The argument on the issue of whether other parties and to what extent they were liable for the full fees, is a question that ought to have been raised before the deputy registrar as it goes to the issue of quantum of fees. Once judgment is entered against it, the respondent is at liberty to claim contribution or indemnity from the other parties. I therefore do not find any merit in the objections raised by the respondent.
7. The issue of interest can only arise once judgment is entered by the court under section 51(2) of the [Advocates Act](#). The deputy registrar lacks jurisdiction to award interest as its duty is limited to ascertaining the fees payable to the advocates. It is when the amount has been ascertained and judgment entered that interest may be imposed. The relevant legal provision is rule 7 of the [Advocates Remuneration Order](#) which provides as follows:

An advocate may charge interest at 14% per annum on his disbursements and costs, whether by scale or otherwise, from expiration of one month from delivery of his bill to the client, provided such claim for interest is raised before the amount of the bill has been paid or tendered in full.
8. This aforesaid legal provision is clear that an advocate is entitled to charge interest on his legal fees at the rate of 14% per annum until payment in full subject to the requirement that the advocate must raise the claim for interest before the bill is paid in full. The burden is on the advocate to show that it has complied with the rule 7 aforesaid for the court to award interest at the rate provided for. In this case, there is nothing in the advocates' deposition showing that it raised the claim for interest. The normal court rate of interest will therefore apply from the date of taxation.
9. For the reasons I have set out, I allow the application dated March 23, 2021 on the following terms:
  - a. Judgment is entered for the applicant/advocates against the respondent for the sum of Kshs 1,905,082.50 together with interest thereon at 12% per annum from March 18, 2022 until payment in full.
  - b. The applicant is awarded costs of the application assessed at Kshs 20,000.00 only.

**DATED AND DELIVERED AT NAIROBI THIS 30<sup>TH</sup> DAY OF SEPTEMBER 2022.**

**DS MAJANJA**

**JUDGE**

Court Assistant: Mr M Onyango

