



Munyithya, Mutugi , Umara & Muzna Co Advocates v Waweru & 2 others (Environment and Land Miscellaneous Application 12 of 2018) [2023] KEELC 18341 (KLR) (21 June 2023) (Ruling)

Neutral citation: [2023] KEELC 18341 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION 12 OF 2018
NA MATHEKA, J
JUNE 21, 2023**

BETWEEN

MUNYITHYA, MUTUGI , UMARA & MUZNA CO ADVOCATES . APPLICANT

AND

BOARD OF GOVERNORS 1ST RESPONDENT

ZEPHANIA GICHEHA WAWERU 2ND RESPONDENT

ST JOENS KINGS ACADEMY 3RD RESPONDENT

RULING

- 1 The Application is dated October 22, 2021 and is brought under Sections 1A, 1B and 3A of the [Civil Procedure Act](#), Cap 21, Laws of Kenya, Section 51(2) of the [Advocates Act](#) seeking the following orders:
 1. That this Honourable court do enter judgment on the Certificate of Taxation dated May 31, 2021 for an amount of Kshs 520,296.20.
 2. That interest of 14% to accrue from the date of issue of Certificate of Taxation till payment in full.
 3. That costs of this application be provided for.
- 2 It is application is supported by the sworn affidavit of Simon PM Mutugi and based on the following grounds that the Applicants herein filed their Advocate-Client Bill of Costs dated January 26, 2016 emanating from the Respondents' instructions to institute a suit against Saha Ahmed and Samuel Bisase for trespass. That the Respondents herein were served with the requisite Notice of Taxation and the Bill of costs was taxed inter-parties. That the Bill of costs was taxed at Kshs 520,296.20 and a Certificate of Taxation was issued on the May 31, 2021. That the Respondents have not lodged any objection to the taxation and there is no indication of any reference being filed relating to the same. That the Certificate of costs has not been altered, set aside or varied since issued. That the Applicants



are unable to proceed with the execution process so as to recover the amount as there is no decree. That this application is made in the best interest of justice.

3 This court has considered the application and the supporting affidavit. The same was served but the Respondent failed to attend court or file any response. There no reference has been filed against the Taxation. I find the same is unopposed. I find the application is merited and I grant it as prayed.

4 It is so ordered.

DELIVERED, DATED AND SIGNED AT MOMBASA THIS 21ST JUNE 2023.

N.A. MATHEKA

JUDGE

