



Chege Kibathi & Co Advocates v Embakasi Ranching Company Limited (Miscellaneous Application E132 of 2022) [2023] KEELC 18344 (KLR) (20 June 2023) (Ruling)

Neutral citation: [2023] KEELC 18344 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
MISCELLANEOUS APPLICATION E132 OF 2022**

**MD MWANGI, J
JUNE 20, 2023**

BETWEEN

CHEGE KIBATHI & CO ADVOCATES ADVOCATE

AND

EMBAKASI RANCHING COMPANY LIMITED CLIENT

(In respect of the Advocate's application dated 30th January 2023 seeking entry of judgment against the Client/Respondent in accordance with the certificate of costs issued after the taxation of the Advocate-Client Bill of Costs)

RULING

Background

1. In this matter, the Advocate's Bill of Costs dated 25th July 2022 was taxed on 24th November, 2022 at the sum of Kshs. 138,213.60 and the Certificate of Taxation issued on 17th January, 2023. The Advocate then filed this application dated 30th January 2023 seeking for entry of judgment for the taxed amount with interest at the rate of 14% per annum from the date of issuance of the certificate of costs until payment in full. The Advocate too prays for the costs of the application.
2. The Client/Respondent despite having been served did not file any response neither did it send any representation during the hearing of the application. The application is premised on the grounds on the face of it mainly that the Client/Respondent owes the Advocate/Applicant the taxed costs in accordance with the Certificate of costs which it has failed to pay.
3. The application is further supported by the affidavit of Dennis Juma deposed on the 30th January 2023. The deponent reiterates the grounds on the face of the application.



Advocate/Applicant's submissions

4. The Advocate/Applicant submits that at the time of filing the instant application, no reference had been filed by the Client/Respondent against the taxation. It is therefore the Applicant's submission that since the Certificate of costs issued herein has not been varied and or set aside, his application is merited and should be allowed as prayed.

Issues for Determination

5. Having perused the Notice of Motion application herein, I am of the view that the only issue for determination is whether the court should enter judgment in favour of the Advocate/Applicant as prayed.

Determination

6. In this matter, a certificate of taxation dated 17th January, 2023 is on record confirming the taxation of the Advocate-Client bill of costs at the sum of Kshs. 138,216.60. No reference has been filed against the taxation in accordance with the provisions of Rule 11 of the *Advocates Remuneration Order*. The Rule provides that:

“Where a party is aggrieved by the decision of a Taxing Master, he is required to object in writing by requesting the Taxing Master to give reasons for the items of taxation that he is objecting to and thereafter file reference before a Judge.”

7. Section 51(2) of the *Advocates Act* on the other hand 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.”

8. In the case of *Lubulellah & Associates Advocates -vs- N. K. Brothers Limited* [2015] eKLR the court held that;

“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for the recovery of costs.”

9. That being the case in this instance, no other action would be required of this court save to enter judgment in favour of the Advocate which I hereby do. Accordingly, judgement is hereby entered for the law firm of Chege Kibathi & Company Advocates for the sum of Kshs. 138,213.60 against Embakasi Ranching Company Limited with interest at the rate of 14% per annum from the 17th January, 2023 until payment in full.

10. The Advocate/Applicant shall also have the costs of this application.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 20TH DAY OF JUNE 2023.

M.D. MWANGI



JUDGE

In the presence of:

N/A for the Advocate/Applicant

N/A for the Client/Respondent

