



Mereka & Co Advocates v Nicola Farm Limited (Environment & Land Miscellaneous Case E064 of 2023) [2025] KEELC 3205 (KLR) (4 April 2025) (Ruling)

Neutral citation: [2025] KEELC 3205 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND MISCELLANEOUS CASE E064 OF 2023**

TW MURIGI, J

APRIL 4, 2025

**IN THE MATTER OF THE ADVOCATES ACT
AND
IN THE MATTER OF THE ADVOCATES/CLIENT BILL OF COSTS
DATED 30 TH MAY 2022**

BETWEEN

MEREKA & CO ADVOCATES APPLICANT

AND

NICOLA FARM LIMITED RESPONDENT

RULING

1. By a Notice of Motion dated 13th May 2024, brought under Section 51 (2) of the [Advocates Act](#) Cap 16, Sections 1A, 1B, 3, 3A and 27 of the [Civil Procedure Act](#), the Applicant seeks the following orders:
 1. That this Honourable court be pleased to enter Judgment for the amount of Kshs 376,862.41/ = in terms of the Certificate of Taxation dated 6th March 2024 together with interest at 14% from the said date.
 2. That pursuant to the judgment a decree be issued for enforcement/execution.
 3. That the costs of this application be in the cause.
2. The application is premised on the grounds appearing on its face together with the supporting affidavit of David Mukii Mereka sworn on even date.
3. Though duly served the Respondent did not file any response to the application.



4. When this matter came up for directions on 20th November 2024, Mr Omondi holding brief for Faisal for the Respondent was granted 21 days to file their response to the application. The matter was fixed for mention on 24th March 2025 for directions. When the matter came up for mention on 24/03/2025, neither the Respondent nor his Advocate were present in court. The Respondent had neither filed a replying affidavit nor grounds of opposition. The Applicant urged the court to allow the application as prayed.

Analysis And Determination

5. Having considered the application and the affidavit in support thereof, the only issue that arises for determination is whether judgment should be entered for the Advocate/Applicant as per the Certificate of Taxation dated 6th May 2024.
6. Section 51(2) of the *Advocates Act* provides as follows:-

“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 case of *Lubullelah & Associates v NK Brothers Limited* (2014) 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 the 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.”
8. In the matter at hand, the bill of costs dated 16/02/2023 was reserved for taxation on 1/11/2023 and a ruling date was reserved for 1/03/2024. On 01/03/2024, the ruling was deferred to 06/03/2024. The record shows that the ruling was delivered on 06/03/2024 in the presence of Njoroge holding brief for Mereka for the Applicant. The bill of costs was taxed at Kshs. 376,862.41/=. A Certificate of taxation was issued and as it stands now, the same has not been set aside or altered. I find that in terms of Section 51 (2) of the Act there is no reason to deny the Applicant the judgement sought.
9. On the issue of interest, I have considered the provisions of Rule 7 of the Advocates Remuneration Order which provides:-

“An Advocate may charge interest at 14% 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, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full”
10. In the case of *Kerongo & Company Advocates vs Africa Assurance Merchant Co. Ltd* (2019) eKLR the court held that:-

“An Advocate who does not provide proof that he had raised the issue of interest before the amount in the Bill of Costs has been paid or tendered in full will not be paid the interest chargeable under Rule 7 of the Advocates Remuneration.
11. The Advocates have not demonstrated that they had raised the issue of interest and as such they cannot be awarded interest at 14% per annum.



12. In the end, I find that the application dated 13th May 2024 is merited and the same is hereby allowed in the following terms:-
- a) Judgement be and is hereby entered for the applicant against the respondent for the sum Kshs. 376,862.41/= in terms of the Certificate of Taxation dated 6th March 2024.
 - b) The Applicant is awarded costs of the application.

RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 4TH DAY OF APRIL, 2025.

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T. MURIGI

JUDGE

In The Presence Of:

Absence of the parties

Hilda – Court assistant

