



**B.M. Mung'ata & Co. Advocates v Mukanda (Environment & Land
Case 84 of 2018) [2022] KEELC 3352 (KLR) (27 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 3352 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MAKUENI
ENVIRONMENT & LAND CASE 84 OF 2018**

**TW MURIGI, J
JULY 27, 2022**

BETWEEN

B.M. MUNG'ATA & CO. ADVOCATES APPLICANT

AND

JULIUS MUTHUNGU MUKANDA RESPONDENT

RULING

1. By a Notice of Motion dated December 2, 2021 brought pursuant to the provisions of section 3A of the [Civil Procedure Act](#) and Order 51 Rule 1 of the [Civil Procedure Rules, 2010](#) the Applicant is seeking the following orders: -
 1. That judgment be and is hereby entered for the applicant and decree be and is hereby issued for the taxed costs of Kshs. 82,950/= together with interest from the date of taxation.
 2. That the costs of this application be provided for.
2. The application is premised on the grounds appearing on its face together with the supporting affidavit sworn by Brian Munyao on the even date. A summary of the grounds and the averments is that upon conclusion of this matter, an Advocate-client bill of costs was filed, taxed and a certificate of taxation was issued on October 19, 2021 in the sum of Kshs. 82,950/=. That the respondent has refused to settle the taxed costs prompting this application. Thus, it is in the interest of justice that the application is allowed.
3. The respondent did not file a response to the application despite being duly served.

Analysis And Determination

4. Having considered the application and the supporting affidavit, I find that the only issue for determination is whether the Applicant is entitled to the orders sought.



5. 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.

6. Paragraph 7 of the *Advocates (Remuneration) Order, 1962* stipulates that: -

An advocate may charge interest at 14 per cent 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, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.

7. A certificate of costs once issued is final and conclusive evidence that taxation proceedings are complete. The court may not enter judgment on a certificate of costs where the certificate has been set aside, varied or altered or the retainer is disputed. There is no evidence of a reference against the order of the taxing officer having been filed in this Court as per the provisions of Paragraph 11 of the *Advocates (Remuneration) Order, 1962*.

8. In the instant application, the applicant filed an affidavit of service on March 16, 2022 and averred that service of this application was done on March 3, 2022. That is when the claim for interest on the taxed costs is noted to have been raised with the respondent as no proof was provided of the respondent's participation in the taxation proceedings.

9. Consequently, the Application dated 2nd of December is allowed in the following terms: -

- i. Judgment is hereby entered for the applicant and decree is hereby issued for the taxed costs of Kshs. 82,950/= together with interest at 14% per annum from March 3, 2022.
- ii. I make no order for costs in regard to the application dated 2nd of December 2021.

HON. T. MURIGI

JUDGE

RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 27TH DAY OF JULY, 2022.

IN THE PRESENCE OF: --

Court assistant – Mr. Kwemboi

Ms Munyao for the Applicant.

