



REPUBLIC OF KENYA



**Masore Nyang'au & Co. Advocates v Supplies & Services Limited
(Environment and Land Miscellaneous Application 286 of 2016)
[2022] KEELC 12782 (KLR) (30 September 2022) (Ruling)**

Neutral citation: [2022] KEELC 12782 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION 286 OF 2016
LN MBUGUA, J
SEPTEMBER 30, 2022**

BETWEEN

MASORE NYANG'AU & CO. ADVOCATES APPLICANT

AND

SUPPLIES & SERVICES LIMITED RESPONDENT

RULING

1. Before me is an application dated February 22, 2022 where the advocate is seeking the following orders:
 - i. That the honourable court be pleased to enter judgment in favour of the applicant against the respondent in the sum of Kshs 580,191.46 as per the certificate of taxation dated August 21, 2017, together with interest thereon at 14% p.a from August 21, 2017 until payment in full.
 - ii. That the honourable court be pleased to order that the respondent to pay costs of this application.'
2. The application is premised on grounds that the advocate represented the client in the suit HCCC No 1 of 2011. Kida Trading Company Ltd v Supplies & Services Ltd & 3 others, of which the advocate client's bill of costs was taxed on August 21, 2017 and a certificate of taxation was issued on February 17, 2022. The applicant contends that there is no issue of retainer outstanding and that the references filed by both the advocate and the client were dismissed by the court.
3. The client opposed the application via grounds of opposition dated June 8, 2022 where they contend that there is an issue of retainer yet to be resolved as the advocate had received a sum of ksh 5 500 000 which sum is a subject in the High Court Miscellaneous Application No E249 of 2021 (OS) Kensalt Limited & Another v Leo Masore Nyangau T/A Masore & Co Advocates; that the said matter is



pending and the the court has directed parties to go for medication. The respondent therefore contends that the application is an abuse of the court process.

4. The application was canvassed via written submissions. The applicant's submissions are dated June 21, 2022. The respondent was directed to file and serve their submissions by July 26, 2022 but there was no compliance thereof.
4. The issue for determination is whether this court should enter judgment for the applicant as set out in the application.
4. I have perused the records and I have considered the arguments advanced by the rival parties including the submissions of the applicant. I find that the ruling on the bill of costs was delivered way back on August 21, 2017. Thereafter, both the applicant and the respondent lodged their references before this court dated September 25, 2017 and November 2, 2017 respectively whereby a ruling thereof was delivered on November 15, 2018 dismissing both references. I find that the issue of retainer was never raised during the aforementioned taxation and reference proceedings. Equally there was no mention of any deposit paid. There is no stay of proceedings, review or appeal in respect of the ruling of this court delivered on November 15, 2018. There are no orders of stay of these proceedings emanating from the aforementioned case, Miscellaneous No E249 of 2021 at the High Court or any other superior court.
4. In the final analysis, I find that no plausible grounds have been advanced by the respondent to warrant a denial of the orders sought. In terms of the provisions of section 51 (2) of the Advocates Act, the application dated February 22, 2022 is allowed with costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY OF SEPTEMBER, 2022 THROUGH MICROSOFT TEAMS.

LUCY N MBUGUA

JUDGE

In the presence of:-

Masore for the Applicant

Court Assistant: Joan

