



AI Onyango & Company B Advocates v Chege (Environment and Land Miscellaneous Application E236 of 2021) [2024] KEELC 6682 (KLR) (11 July 2024) (Ruling)

Neutral citation: [2024] KEELC 6682 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E236 OF 2021
MD MWANGI, J
JULY 11, 2024

BETWEEN

AI ONYANGO & COMPANY B ADVOCATES APPLICANT

AND

FREDRICK KANGETHE CHEGE RESPONDENT

RULING

(In respect of the Advocate's application dated September 20, 2023 seeking entry of judgement for the taxed costs)

Background

1. In this matter, the Advocate's Bill of costs dated November 18, 2021 was taxed on the August 23, 2023 at the sum of Kshs.432,717/-.
2. The application before me is the Advocate's application dated September 20, 2023 seeking entry of judgement for the taxed costs of Kshs. 432,717.00 /=. The Applicant further prays that in default of settlement thereof, the Applicant be at liberty to execute through its appointed Court bailiffs. The Applicant seeks costs of the application as well.
3. The application is premised on the grounds on the face of it and supported by the Advocate's affidavit sworn on September 20, 2023. He deposes that the Advocate's Bill of costs was taxed on the August 23, 2023. The taxed costs have neither been set aside nor varied by the Honourable Court.
4. Though the application was duly served on the Respondent and an affidavit of service filed, the Respondent did not file a response to the motion. The application is therefore unopposed.



Issues for Determination

5. Having perused the Notice of Motion application dated November 7, 2022 together with the supporting affidavit, 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.

Analysis and Determination

6. It is clear from the Court record that the Advocate bill of costs dated November 18, 2021 was taxed on August 23, 2023 and allowed as against the Respondent in the sum of Kshs. 432,717/=. A certificate of taxation was subsequently issued on October 23, 2023.

7. The taxation of the Advocate's bill of costs has not been challenged by the Client in accordance with the provisions of Rule 11 of the [Advocates Remuneration Order](#) which 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.”

8. Consequently, the Court is bound by the provisions of Section 51(2) of the [Advocates' Act](#). The Section provides that:

“(2) 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.”

9. In the case of [Lubulellah & Associates Advocates -vs- N. K. Brothers Limited](#) [2015] eKLR, the court stated 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”.

10. The Client/Respondent did not file a reference to challenge the ruling of the Taxing Master. The determination by the Taxing Master has neither been set aside nor altered. That being the case, the court enters judgement for the Advocate/Applicant against the Respondent for the sum of Kshs. 432,717/=. The Advocate/Applicant is also granted the costs of this application.

11. Regarding the other prayer on execution by the Court Bailiffs, the law is clear on the procedure to be followed for purposes of execution of a judgement of the Court. I need not make any orders on the mode of execution.

It is so ordered.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 11TH DAY OF JULY 2024.

M.D. MWANGI

JUDGE



In the virtual presence of:

Mr. Onyango for the Applicant

N/A by the Respondent

Yvette: Court Assistant

