



Wambua and Maseno Advocates v Cortec Solutions Africa Limited (Miscellaneous Application E631 of 2023) [2025] KEHC 102 (KLR) (17 January 2025) (Ruling)

Neutral citation: [2025] KEHC 102 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
MISCELLANEOUS APPLICATION E631 OF 2023
RC RUTTO, J
JANUARY 17, 2025**

BETWEEN

WAMBUA AND MASENO ADVOCATES APPLICANT

AND

CORTEC SOLUTIONS AFRICA LIMITED RESPONDENT

RULING

1. The applicant has filed a Notice of Motion dated 22nd October 2024. It is hinged on the provisions of section 51 (2) of the *Advocates Act*, order 51, rule 1 of the Civil Procedure Rules and paragraph 7 of the Advocates Remuneration Order seeking the following reliefs:
 - a. That judgment in the taxed sum of Kshs. 100,000.00 (Kenya shillings one hundred thousand only) be entered against the respondent and a decree be drawn to that effect for execution;
 - b. The applicant be awarded interest calculated at 14% per annum on the ruling of this court delivered in this matter on 9th September 2024;
 - c. That costs of this application be borne by the respondent.
2. The application is supported by the grounds on its face and the supporting affidavit of Anthony Maseno, the managing partner of the applicant firm sworn on 22nd October 2024. The applicant contended that by a ruling of the taxing master delivered on 9th September 2024, the applicant's advocate-client bill of costs dated 18th July 2023 was taxed at Kshs. 100,000.00. Subsequently, the applicant was issued with a certificate of costs for taxation dated 17th October 2024. That upon issuance of the certificate, it served the respondent with the same but he has never settled the sum. It added that no reference has been lodged to challenge the said decision. It opined that based on the respondent's conduct, it does not intend to settle the said sums hence the application. It thus urged this court to allow the application as prayed as it was in the interest of justice.



3. The court is satisfied that the respondent was properly served with the application. On 17th October 2024, the respondent through its counsel were formally served with the certificates of taxation. The service notwithstanding, the respondent elected not to participate to defend the prosecution of this application by not filing or making any representation. During the hearing of the application on 14th November 2024, the applicant adopted the application urging this court to allow the same as prayed.

4. Section 51 (2) of the *Advocates Act* provides:

“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.”

5. In the ruling dated 9th September 2024, the taxing master taxed the applicant’s advocate-client bill of costs dated 18th July 2023 at Kshs. 100,000.00. The applicant was issued with a certificate of costs for taxation dated 17th October 2024. It is instructive to note that the respondent has furnished no responses to persuade this court why the application ought not to be granted. Chiefly, there is no evidence that the said decision has been challenged by way of reference or varied or set aside. Accordingly, I find that the application is merited. Judgment is entered in favor of the applicant in the sum of Kshs. 100,000.00 as against the respondent. The applicant shall also be awarded costs of this application and interest therein at the rate of 14% from 9th September 2024 until payment in full.

It is so ordered.

RHODA RUTTO

JUDGE

DELIVERED, DATED AND SIGNED THIS 17TH DAY OF JANUARY 2025

For Appellant:

For Respondent:

Court Assistant:

