



Chirchir t/a Cheronno Chirchir & Co Advocates v Africa Merchant Assurance Co Ltd (Civil Miscellaneous Application 80 of 2019) [2025] KEHC 3506 (KLR) (19 March 2025) (Ruling)

Neutral citation: [2025] KEHC 3506 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CIVIL MISCELLANEOUS APPLICATION 80 OF 2019
DKN MAGARE, J
MARCH 19, 2025**

BETWEEN

**SOPHIE CHIRCHIR T/A CHERONO CHIRCHIR & CO
ADVOCATES APPLICANT**

AND

AFRICA MERCHANT ASSURANCE CO LTD RESPONDENT

RULING

1. This is a ruling over a Miscellaneous Application dated 28th September, 2021. The Applicant sought relief that judgment be entered for the Applicant against the Respondent in the sum of Kshs. 183,370/= being the sum taxed and certified by the Deputy Registrar on 13th July, 2021 as due to the Applicant. The Court however notes that the Applicant did not annex the Certificate of Taxation.
2. The application is stated to be brought under Section 55(2) of the *Advocates Act* but ought to have been brought under Section 51 (2) of the *Advocates Act*. The said Section 51(2) of the *Advocates Act* provides thus:
 - a. 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.
3. As a fact, after filing of the Notice of Motion dated 28th September 2021, there does not appear to be active participation of the Respondent. In the case of *Musyoka & Wambua Advocates v RustamHira Advocate* (2006) eKLR it was held: -

Section 51 of the Act makes general provisions as to taxation, as the marginal note indicates. One of those provisions is that the court has discretion to enter judgment on a Certificate of



Taxation which has not been set aside or altered, where there is no dispute as to retainer. This in my view is a mode of recovery of taxed costs provided by law, in addition to filing of suit...

4. The Applicant has done her part, serving the bill of costs, and other processes. The application is allowed.

Determination

5. I therefore make the following orders: -
 - a. Judgment be and is hereby entered for the Applicant against the Respondent for Kshs. 183,370/=.
 - b. Interest thereon is awarded effective as from 13.8.2021.
 - c. The file is closed.

**DELIVERED, DATED AND SIGNED AT NYERI ON THIS 19TH DAY OF MARCH, 2025.
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

KIZITO MAGARE

JUDGE

In the presence of: -

Ms. Mbaabu for the Applicant

No appearance for the Respondent

Court Assistant – Michael

