



**Kiro v EW (Minor Suing Thru Her Father and Next Friend GK) (Civil Appeal 124 of 2018) [2025] KEHC 5182 (KLR) (21 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 5182 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL 124 OF 2018  
A MSHILA, J  
MARCH 21, 2025**

**BETWEEN**

**DAVID KIMANI KIROIRO ..... APPELLANT**

**AND**

**EW (MINOR SUING THRU HER FATHER AND NEXT FRIEND  
GK) ..... RESPONDENT**

**JUDGMENT**

**Background**

1. The Application is a Notice of Motion dated 29<sup>th</sup> January, 2024 brought under Sections 1A, 1B and 3A of the *Civil Procedure Act*, Order 22 of the Civil Procedure Rules and all other enabling provisions of the law; the Applicant seeks for orders that;
  - a. The Certificate of Costs issued to the Respondent be converted into a Judgment of this Court and judgment be entered in favour of the Respondent for the sum of Kshs.176,100/-
  - b. Interest on the sum of Kshs.176,100/- at the rate of 14%;
  - c. Costs of this Application be awarded to the Respondent.
2. The Application was premised on the grounds on the face of the application and supported by the sworn Affidavit of Geoffrey Kiambati who stated that the Party and Party Bill of Costs lodged on 18<sup>th</sup> July, 2022 was taxed and allowed in the sum of Kshs.176,100/- and a Certificate of Taxation issued on 7<sup>th</sup> November, 2023.
3. The decision of the Taxing Officer delivered has not been reviewed and/or set aside. The Appellant has not objected to the taxation, neither did he file a reference against the Certificate of Taxation and has not settled the amount thereof despite being notified.



## **Issues For Determination**

4. After considering the Application the court has framed the following issues for determination:
  - a. Whether judgment should be entered for the Applicant/Respondent as per Certificate of Taxation herein issued on 7<sup>th</sup> November, 2023.
  - b. Whether interest is applicable thereon;

## **Analysis**

### **Whether judgment should be entered for the Respondent/Applicant as per Certificate of Taxation herein dated 7<sup>th</sup> November, 2023;**

7. In determining whether the court should adopt the amount on the Certificate of Taxation as the judgment of the court it should be satisfied that the certificate of taxation has not been set aside.
8. Reference is made to the case of Lubulellah & Associates Advocates Vs N. K. Brothers Limited (2014) eKLR where the court observed 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. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the Applicant against the Respondent herein for the taxed sum indicated in the Certificate of Taxation that was issued on 25<sup>th</sup> November 2012.”

7. From perusal of the court record this court is satisfied that the Ruling is uncontested as the Appellant has not moved any court by way of filing a Reference against the ruling nor has the Ruling been set aside, altered, varied and / or reviewed, nor has any appeal been filed.
8. Therefore, no other action is required from this court save to enter judgment as prayed in favour of the Respondent.

### **Whether interest is applicable thereon and payable**

7. The Applicant seeks the court to grant interest thereon at 14% per annum until payment in full. The claim for interest must be raised for it to start to accrue. After careful perusal of the court record nowhere is there a claim for interest raised in the Demand Letter dated 9<sup>th</sup> November, 2023.
8. The Applicant is found to have failed to furnish proof that it had raised the claim for interest with the Appellant beforehand therefore the prayer for interest to start accruing on the costs is found to be devoid of merit and is therefore disallowed.

## **Findings And Determination**

7. In the light of the foregoing this court makes the following findings and determinations;
  - i. The Application dated 29<sup>th</sup> January, 2024 is found to be partially meritorious;
  - ii. The Certificate of Taxation issued on 7<sup>th</sup> November, 2023 in the sum of Kshs.176,100/- is hereby adopted as a Judgment of this Court.



- iii. There shall be no order as to interest.
  - iv. Each party to bear their own costs of this application.
- Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 21<sup>st</sup> DAY OF MARCH, 2025.**

**A. MSHILA**

**JUDGE**

In the presence of;

Sanja – Court Assistant

N/A- For the Applicant

Muindi – for the Respondent

