



Kinyua & Maingi Advocates v Trident Insurance Co. Limited (Miscellaneous Application E081 of 2023) [2025] KEHC 4289 (KLR) (2 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4289 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
MISCELLANEOUS APPLICATION E081 OF 2023**

RC RUTTO, J

APRIL 2, 2025

BETWEEN

KINYUA & MAINGI ADVOCATES APPLICANT

AND

TRIDENT INSURANCE CO. LIMITED RESPONDENT

RULING

1. The applicant's Notice of Motion dated 18th December 2023 has invoked section 51 (2) of the *Advocates Act* seeking the following reliefs:
 1. That judgment be entered in favor of the applicant against the respondent for the sum of Kenya Shillings one hundred and eighteen thousand two hundred and fifty shillings only (Kshs.118,250.00) being the certified costs due to the applicant as against the respondent;
 2. That the respondent does pay to the applicant the cost of this application together with interest on the taxed sum.
2. The application is supported by the grounds on the body of the Motion and the supporting affidavit of Anne N. Kinyua, an advocate practicing in the nature and style of the applicant. The gist of the Motion is that the respondent instructed the applicant firm to come on record for the 4 respondents in Machakos SCCC No. E290 of 2022; Elizabeth Nduku Musyoka vs. Susan Mutheu & 3 others. The applicant contended that in spite of rendering its legal services, the respondent failed to pay legal fees. Consequently, the applicant filed its bill of costs dated 4th May 2023. The same was taxed on 9th November 2023 at Kshs. 118,250.00. A Certificate of Taxation was issued on 6th December 2023.
3. The applicant urged this court to allow the application as the Certificate of Taxation has not been appealed, set aside or altered by any court. In addition, in spite of being served with the Certificate of Taxation, the respondent has never settled that sum.



4. The application was unopposed. During its hearing on 3rd February 2025, the applicant satisfied this court that the respondent was properly served with the application. In the absence of the respondent, the applicant submitted that the application was merited. It prayed that the same be allowed.
5. 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.”
6. The taxing master’s ruling dated 9th November 2023 taxed the applicant’s advocate-client Bill of Costs at Kshs.118,250.00. A Certificate of Taxation dated 6th December 2023 was issued. There is no evidence that the decision has been challenged by way of reference, varied or set aside. The application is merited.
7. Accordingly, judgment is entered in favor of the applicant in the sum of Kshs. 118,250.00 as against the respondent. The applicant shall also be awarded costs of this application and interest therein at the rate of 14% from the date the bill of costs dated 4th May 2023 was taxed, that is to say from 9th November 2023, until payment in full.
8. It is so ordered.

DATED AND DELIVERED AT MACHAKOS THIS 2ND DAY OF APRIL 2025.

RHODA RUTTO

JUDGE

In the presence of;

Ms Kinyaa for the Applicant

Sam Court Assistant

