



Kinyua & Maingi Advocates v Trident Insurance Co Limited (Miscellaneous Application E212 of 2023) [2025] KEHC 4312 (KLR) (2 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4312 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
MISCELLANEOUS APPLICATION E212 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 is dated 7th November 2024. It has invoked the provisions of section 51 (2) of the *Advocates Act* seeking:
 1. That judgment be entered in favor of the applicant against the respondent for the sum of one hundred and twelve thousand two hundred shillings only (Kshs. 112,200.00) 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 Njoki Kinyua, an advocate practicing in the nature and style of the applicant. The gist of the Motion is that the respondent herein instructed the applicant to come on record and defend it in Kithimani CMCC No. E080 of 2021; Ruth Mbithe (Suing as the legal representative and administrator of the estate of Mirabel Zawadi (deceased) vs. Ezekiel Muthama Munanu. The applicant contended that in spite of rendering its legal services, the respondent failed to pay legal fees. In the circumstances, the applicant filed its bill of costs dated 19th October 2023. The same was taxed on 3rd October 2024 at Kshs. 112,200.00. A Certificate of Taxation was issued on 31st October 2024.
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. It was heard on 4th February 2025. Upon perusing the Return of Service sworn by Simon Mutinda James on 2nd and 19th December 2024 I was persuaded that in spite of being duly served with the application and hearing notice, the respondent was absent. The application thus proceeded for hearing in the absence of the respondent's. The applicant urged this court to allow the application as prayed.
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. In the ruling dated 3rd October 2024, the taxing master taxed the applicant's advocate-client Bill of Costs dated 19th October 2023 in the sum of Kshs.112,200.00. The applicant was issued with a Certificate of Taxation dated 31st October 2024. There is no evidence that the decision has been challenged by way of reference or that the same has been varied or set aside. I am therefore satisfied to hold that the application is merited.
7. Accordingly, judgment is entered in favor of the applicant in the sum of Kshs.112,200.00 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 9th September 2020 was taxed, that is to say from 9th day of July 2021, 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 Kinyua for the Applicant

Sam Court Assistant

