



Magatta & Associates v Trident Insurance Company Limited (Miscellaneous Civil Application E033 of 2024) [2025] KEHC 4960 (KLR) (7 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4960 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
MISCELLANEOUS CIVIL APPLICATION E033 OF 2024**

GL NZIOKA, J

APRIL 7, 2025

BETWEEN

MAGATTA & ASSOCIATES APPLICANT

AND

TRIDENT INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. By an application dated 14th day of November 2024, brought under the provisions of section 51(2) of the *Advocates Act* (Cap 16) Laws of Kenya, section 27(2) of the *Civil Procedure Act* (Cap 21) Laws of Kenya and Order 51 Rule 1 of the *Civil Procedure Rules 2010*, the applicant is seeking for the following orders:
 - a. That the court be pleased to enter judgment for the applicant against the respondent in the sum of Kshs. 75,968.00 only in terms of the Certificate of Costs dated 7th of November 2024 together with the accrued interest thereon until payment in full.
 - b. That the costs of this application be borne by the respondent.
2. The application is based on the grounds thereto and an affidavit sworn by Owen Magata, an Advocate of the High Court of Kenya practising as such in the applicant's firm.
3. He avers that on 6th April 2018 the respondent instructed the applicant's firm to file a defence to protect its interests in Chief Magistrate Civil Suit No. 279 of 2018, *Odinga Wilson Otieno (suing as the Legal Administrator of the Estate of Luck Odinga vs Trident Insurance Company Limited)* at Naivasha, which the applicant did.
4. However, the respondent has neglected and/or refused to pay the legal fees for the service rendered necessitating the filing of Advocates-client bill of costs dated 7th May, 2024.



5. That, the Deputy Registrar delivered the ruling on the bill on 21st June 2024 taxing it at Kshs. 75,968.00 and subsequently a certificate of costs issued on 7th November 2024. The applicant thus prays that judgment be entered as prayed.
6. On 22nd November 2024, when the matter was placed before the court, it was ordered that the application be served for directions and the matter mentioned on 11th December 2024.
7. On the said date, the respondent did not appear in court despite being served. The court set the application for hearing on 11th February 2025 and ordered the respondent be served with a hearing notice.
8. On 11th February 2025, the court was informed that the respondent had been served but had not entered an appearance nor filed a response to the application. The matter was fixed for further orders
9. I have considered the application in the light of the provisions of section 51(2) of the *advocates Act* which states that:

“The certificate of a taxing officer by whom it has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of 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.
10. Upon perusal of the documents attached to the affidavit in support of the application, I note that the applicant has annexed thereto a letter dated, 6th April 2018 wherein the respondent instructed it to act on its behalf in the aforesaid subject suit.
11. Further, attached is a copy of bill of costs dated; 7th May 2024, which was taxed on 21st June 2024 in the sum of; Kshs 75,968.00 as per the certificate of costs issued and produced herein.
12. It suffices to note, the court directed the respondent be served with the application but despite the service as evidenced by affidavits of service dated 10th December and 11th December 2024 the respondent did not appear in court and/or respond to application.
13. In the given circumstances, I find that the application is not opposed and I allow it as prayed save that, the interest on the amount awarded shall accrue from the date of this order as there is no indication that a formal demand was ever made for payment of the subject amount and not honoured.
14. That is the decision of the court.

DATED, DELIVERED AND SIGNED THIS 7TH DAY OF APRIL 2025.

GRACE L. NZIOKA

JUDGE

In the presence of:

Mr. Magata for the applicant

N/A for the respondent

Ms. Hannah: court assistant

