



REPUBLIC OF KENYA



**Manyonge Wanyama & Associates v County Secretary & 4 others (Miscellaneous Application E128 of 2024) [2025] KEHC 4388 (KLR) (4 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4388 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
MISCELLANEOUS APPLICATION E128 OF 2024**

**A MSHILA, J**

**APRIL 4, 2025**

**BETWEEN**

**MANYONGE WANYAMA & ASSOCIATES ..... APPLICANT**

**AND**

**COUNTY SECRETARY & 4 OTHERS & 4 OTHERS & 4  
OTHERS ..... RESPONDENT**

**RULING**

**Background**

1. Before court is the Notice of Motion dated 26<sup>th</sup> July, 2024 and brought under Section 51(2) of the [Advocates Act](#) (CAP 16) of the Laws of Kenya. The Applicant sought for the following orders:-
  - a. That this Honourable Court be pleased to order that the Certificate of Costs dated 23<sup>rd</sup> July, 2024 issued against the Respondents for the sum of Kshs.2,467,021/30 be adopted as a judgment of the court; and a decree do issue;
  - b. That interest be charged on the decretal sum at the rate of 14% per annum from the date of the taxation 23<sup>rd</sup> July, 2024.
  - c. That the costs of this application be provided for.
2. The application is premised on the grounds on the face of the application and the Supporting Affidavit of Peter Wanyama dated 26<sup>th</sup> July, 2024 made in support of the application; therein he states that the Respondent instructed the firm of Manyonge Wanyama & Associates LLP to act for it in Kiambu Constitutional Petition No. 4 Of 2023 Bunge Mashinani Initiative Vs County Government Of Kiambu)
3. The Applicant successfully discharged its mandate of offering legal services in the matter as instructed by the County Attorney County Government of Kiambu; Respondents failed to pay the legal fees



thereby necessitating the filing of the Bill of Costs which was taxed and a Certificate of Taxation was issued at Kshs. 2,467,021/2942 which has not been varied or set aside by any court of competent jurisdiction;

4. The instant application was uncontested as the Respondents failed and or neglected to file any response; there are no outstanding issues left for determination;
5. The Applicant prayed that the application be allowed as prayed and judgment be entered as prayed for the sum of Kshs.2,467,021/2942 together with interest thereon. The Applicant also prayed for costs of the application.

### **Issues For Determination**

6. Having considered the application and the supporting affidavit the issues framed for determination are;
  - i. Whether the application is merited for the court to adopt the Certificate of Taxation and enter judgment in the sum of Kshs. 2,467,021/2942 and;
  - ii. Whether interest is applicable thereon.

### **Analysis**

7. 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 recovered thereby; and the court may make such orders in relation thereto as it thinks fit, including where the retainer is not disputed an order that judgment be entered for the sum of certified to be due with costs.”

8. The wordings of the above section empower the court to enter judgment on the taxed amount if the same is uncontested.
9. 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 varied or set aside by any court with competent jurisdiction.
10. 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.”

11. From perusal of the court record this court is satisfied that the Ruling delivered on 10/07/2024 is uncontested as the Respondents have 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.
12. Therefore, no other action is required from this court save to adopt the Order and to enter judgment as prayed against the Respondents.



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

13. The Applicant seeks the court to grant interest on the sum of Kshs. 2,467,021/2942/- from 23/07/2024 until payment in full.
14. Rule 7 of the Advocates Remuneration Order provides that:

“An advocate may charge interests at 14% per annum on his disbursement and costs whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, such claim for interests is raised before the amount of the bill has been paid or tendered in full.”
15. The Applicant contends that the Respondents were duly served with the Certificate of Taxation on the 9/12/2024 but upon careful perusal of the annexures this Court has not sighted any evidence to prove service of the Certificate of Taxation having been served upon the Respondents as alleged;
16. The above rule clearly stipulates that such claim for interest must be raised for it to start to accrue after the expiration of one month from the delivery of the bill to the client.
17. In the case of *Kerongo & Company Advocates Vs Africa Assurance Merchant Co. Limited* [2019] eKLR the court held;

‘An advocate who does not provide proof that he had raised the issue of interest before the amount in the Bill of Costs has been paid or tendered in full will not be paid the interest chargeable under Rule 7 of the Advocates Remuneration Order. As the advocates herein had not demonstrated that they had raised the issue of interest as aforesaid, they could not therefore be awarded interest at fourteen (14%) per cent per annum.’
18. This Court reiterates that after careful perusal of the annexures in the court record this Court notes that the Applicant did not annex any copy of acknowledgement in support of service of the Bill or Certificate of Taxation; and nowhere is there a claim for interest raised in the certificate or otherwise;
19. Therefore, in line with Rule 7, the Applicant is found to have failed to furnish proof that it had raised the claim for interest with the Respondents; the prayer for interest to start accruing on the costs is found to be not proven and is therefore disallowed.

### **Findings & Determination**

20. For the forgoing reasons this court makes the following findings and determinations:-
  - i. This court finds the application to be partially meritorious and it is hereby partially allowed;
  - ii. The Certificate of Taxation issued on 23/07/2024 in the sum of Kshs.2,467,021/30 is hereby adopted as a Judgment of this Court. Judgment be and is hereby entered in favour of the Applicant/Advocates in the sum of Kshs.2,467,021/30; and a decree do hereby issue.
  - iii. The prayer for interest is hereby disallowe
  - iv. d.
  - v. Each party to bear its own costs of this application.

Orders Accordingly.

**DATED SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 4<sup>TH</sup> DAY OF APRIL, 2025.**



**HON. A. MSHILA**

**JUDGE**

In the presence of;

Julie – Court Assistant

Komen – h/b for Wanyama for Applicant

Applicant present in person

