



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of Musa Magodo Keya - (Deceased) (Succession Cause 1251(A) of 2019) [2025] KEHC 6115 (KLR) (15 May 2025) (Ruling)

Neutral citation: [2025] KEHC 6115 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
SUCCESSION CAUSE 1251(A) OF 2019**

SN RIECHI, J

MAY 15, 2025

IN THE MATTER OF THE ESTATE OF MUSA MAGODO KEYA- (DECEASED)

RULING

1. This matter relates to the estate of Musa Magodo Keya who died on 2.9.2019 at Nairobi Hospital at the age of 52 years old. He died intestate leaving behind a vast estate and a number of beneficiaries. Upon the death, the firm of Kimeto & Associates was instructed by Gladys Nekesa Peter and Knight Muhonja Magodo to institute Succession proceedings. The said firm handled several applications on behalf of the estate which litigation included the burial of deceased. Management of the vast estate which included a children's home – Magodo Children's home and several properties and bank accounts. Objections to grants were made and issues were returned to Mediation where a partial agreement was reached and adopted by the court on 26.6.2024.
2. The Petitioners along the way appointed the firm of Antony Musili & Co. Advocates in place of Kimeto & Associates Advocates. The firm of Kimeto & Associates Advocates upon having their services terminated filed their bill of costs in Milimani Misc E 159/2024. The Deputy Registrar Hon. Lesootia Suibui taxed the costs and issued certificate of taxation dated 2.2.2024 for Ksh. Sixteen million, eight hundred and eighty six thousand, six hundred and fifty six shillings – (16,886,656/-) only. Dissatisfied with the order of Certificate of costs, the Estate filed a reference dated 2.9.2024 seeking several orders among them that the court allow the reference and remit the bill of costs for re-taxation by another taxing officer other than Hon. Lesootia (Deputy Registrar).
3. By Judgment dated 7th March 2025, Nyaundi J ruled:
 1. I have considered the application, the supporting affidavit, the parties' submissions before me and the authorities cited by both parties. There are several issues arising from this application. First, I will deal with the issue whether the applicant has locus standi to file this application, as if I find that the applicant has no locus standi, I will down my tools.
 2. The Applicant is an Objector and not an Administrator in the Succession Cause the subject of this taxation. She has not rebutted this assertion by the Respondent Advocate. She is a beneficiary to the Estate. As a beneficiary of the estate of the deceased, she certainly has an



interest in the taxed Bill of Costs as the costs are payable from the estate of the deceased before distribution of the net assets to beneficiaries including herself. This position clearly comes out of section 83 of the Law of Succession Act (Cap. 160) on the duties of a personal representatives which states interalia as follows-

3. A personal representative shall have the following duties:
 - a. To pay out of the estate of the deceased, all expenses of obtaining the grant of representation, and all other reasonable expenses of administration including estate duty; any.
 1. It follows therefore, the share of the applicant and the other beneficiaries will be affected by the amount of costs, as costs will be paid from the estate before the net amount is distributed to them.
4. The challenging of the taxed costs having been dismissed, it follows that the certificate of costs is affirmed by the references. It therefore follows that the firm of Kimeto & Associates Advocates are entitled to the taxed costs for services rendered.
5. I therefore enter Judgment for the applicant Kimeto & Associates Advocates against the Respondents for Ksh.16,886,656 with costs to be paid from the estate of Musa Magodo Keya by the administrators.

DATED AT NAIROBI THIS 15TH DAY OF MAY, 2025

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S. N. RIECHI

JUDGE

