



George Miyare t/a Miyare & Company Advocates v Gatungo & 2 others (Miscellaneous Application 94 of 2017) [2025] KEHC 8206 (KLR) (12 June 2025) (Ruling)

Neutral citation: [2025] KEHC 8206 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
MISCELLANEOUS APPLICATION 94 OF 2017
HK CHEMITEI, J
JUNE 12, 2025**

BETWEEN

GEORGE MIYARE T/A MIYARE & COMPANY ADVOCATES APPLICANT

AND

AIKA NYANGARA GATUNGO 1ST RESPONDENT

LISSA WANGU GATUNGO 2ND RESPONDENT

SUSAN WANJIRU GATUNGO 3RD RESPONDENT

RULING

1. In their application dated 2/4/24 the applicant vide the supporting affidavit of Lissa Wangu Gatungo have asked the court to set aside the ruling of this court dated 7th March 2024 in which it had allowed the Respondent application dated 23rd August 2021.
2. The substance of the said application is that the Applicants' grounds of opposition and a replying affidavit was already on record and this court treated the respondent's application as though it was unopposed.
3. The Respondent has opposed the application and although he may have a valid point, I do not think it is onerous for the court to review its ruling for the interest of justice.
4. In this regard I shall proceed to set aside the ruling dated 7th March 2021 after ascertaining that there were indeed grounds of opposition filed by the respondent dated 25th October 2023. There was however no replying affidavit.
5. Having set aside the said ruling I think the next logical step is to ascertain whether the application dated 23rd August 2021 was meritorious.



6. I have perused the same which seeks that:-

“The court be pleased to enter judgment for the advocate/ applicant against the client/ Respondents in the sum of Kshs.1,583,692/= as appears in the certificate of taxation dated 20th August 2021 together with interest at 14% per annum from 25th July 2021 until payment in full.”

7. The application is supported by the sworn affidavit of Esther Mwikali advocate sworn on 23rd August 2021. The said affidavit contains details of the case namely Nairobi Misc. Cause No. 15 of 2015 in which the applicant had been instructed.
8. It appears that the Applicant filed a bill of costs which the Deputy Registrar taxed and a certificate of costs issued dated 20th August 2021 after the ruling dated 30th July 2021.
9. There was no reference filed against the said decision by the Deputy Registrar and the logical way to execute was by way of the said application.
10. The Respondents have filed grounds of opposition dated 25th October 2023. I have searched for the affidavit in response allegedly filed by Lissa Wangu Gatungo in vain. Although it is referred to under paragraph one of the grounds of opposition there is none on record.
11. The grounds alleges that the advocate acted for the clients on a pro bono basis. There is no evidence to that effect.
12. Secondly even if that was the case the same ought to have been an issue before the deputy registrar. It cannot be raised at this juncture noting that there was no appeal or a reference against the decision of the taxing master.
13. In essence therefore I think and find that the Applicant ought to enjoy the fruits of the judgement.
14. The application dated 23rd August 2021 is therefore allowed as prayed with costs to the Applicant.
15. The earlier orders of stay are hereby set aside.

DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 12TH DAY OF JUNE 2025.

H K CHEMITEI

JUDGE

