



REPUBLIC OF KENYA



KENYA LAW
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Kinyua & Maingi Advocates v Trident Insurance Co Limited (Miscellaneous Application E227 of 2024) [2025] KEHC 9121 (KLR) (19 June 2025) (Ruling)

Neutral citation: [2025] KEHC 9121 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
MISCELLANEOUS APPLICATION E227 OF 2024**

RC RUTTO, J

JUNE 19, 2025

BETWEEN

KINYUA & MAINGI ADVOCATES APPLICANT

AND

TRIDENT INSURANCE CO LIMITED RESPONDENT

RULING

1. The applicant's Notice of Motion is dated 11th February 2025. 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 Eighty Two thousand Six Hundred (Kshs 82,600/-) only 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 Ann 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 PMCC No E216 of 2019 Joyce Kaviti Kawinzi vs Bonface Mbithi Nzyoka. 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 22nd July 2024. The same was taxed on 14th November 2024 at Kshs. 82,600.00. A Certificate of Taxation was issued on 11th December 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 and proceeded to a hearing on 2nd April 2025. After reviewing the Return of Service sworn by Simon Mutinda James on 10th March 2025, the court was satisfied that the respondent had been duly served with both the application and hearing notice, but failed to attend court. 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 14th November 2024, the taxing master taxed the applicant's advocate-client Bill of Costs dated 22nd July 2024 in the sum of Kshs.82,600.00. The applicant was issued with a Certificate of Taxation dated 11th December 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.82,600.00 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 22nd July 2024 was taxed, that is from 14th November 2024, until payment in full.

It is so ordered.

DATED SIGNED AND DELIVERED AT MACHAKOS THIS 19TH DAY OF JUNE 2025

RHODA RUTTO

JUDGE

In the presence of;

.....Applicant

.....Respondent

Sam, Court Assistant

