



REPUBLIC OF KENYA



**Kinyua & Maingi Advocates v Trident Insurance Company Limited (Miscellaneous Application E211 of 2024) [2025] KEHC 9062 (KLR) (19 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9062 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
MISCELLANEOUS APPLICATION E211 OF 2024**

**RC RUTTO, J**

**JUNE 19, 2025**

**BETWEEN**

**KINYUA & MAINGI ADVOCATES ..... APPLICANT**

**AND**

**TRIDENT INSURANCE COMPANY LIMITED ..... RESPONDENT**

**RULING**

1. The applicant's Notice of Motion is dated 11<sup>th</sup> 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 One Hundred and Twenty Thousand, Nine Hundred Shillings (Kshs 120,900/-) 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 Machakos CMCC No E224 of 2022 Peter Nzioka Muia vs Dennis Mukuna Kyuthi. 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 19<sup>th</sup> October 2023. The same was taxed on 28<sup>th</sup> November 2024 at Kshs. 120,900.00. A Certificate of Taxation was issued on 17<sup>th</sup> 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 2<sup>nd</sup> April 2025. After reviewing the Return of Service sworn by Simon Mutinda James on 10<sup>th</sup> 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 28<sup>th</sup> November 2024, the taxing master taxed the applicant's advocate-client Bill of Costs dated 19<sup>th</sup> October 2023 in the sum of Kshs.120,900.00. The applicant was issued with a Certificate of Taxation dated 17<sup>th</sup> 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.120,900.00 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 19<sup>th</sup> October 2023 was taxed, that is from 28<sup>th</sup> November 2024, until payment in full.
8. It is so ordered.

**DATED SIGNED AND DELIVERED AT MACHAKOS THIS 19<sup>TH</sup> DAY OF JUNE 2025.**

**RHODA RUTTO**

**JUDGE**

In the presence of;

.....Respondent

.....Applicant

Sam, Court Assistant.

