



Cootow & Associates Advocates v Gachege (Sued as Legal Representative of the Estate of Rahab Wanjiru Evans - Deceased) (Miscellaneous Civil Application 49 of 2016) [2025] KEHC 11111 (KLR) (28 July 2025) (Ruling)

Neutral citation: [2025] KEHC 11111 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CIVIL APPLICATION 49 OF 2016**

PN GICHOHI, J

JULY 28, 2025

BETWEEN

COOTOW & ASSOCIATES ADVOCATES APPLICANT

AND

CHRISTINE WANGARI GACHEGE (SUED AS LEGAL REPRESENTATIVE OF THE ESTATE OF RAHAB WANJIRU EVANS - DECEASED) RESPONDENT

RULING

1. By a Notice of Motion dated 17th March , 2025 and brought under Section 51 (2) of the *Advocates Remuneration Order 2014* and Order 52 of the *Civil Procedure Rules*, Sections 1 A , 1B, 3 and 3A of the *Civil Procedure Act*, the Advocate /Applicant seeks Orders:-
 1. That this Court be leased to convert the Advocate/Client Certificate of Taxation on 26/11/2024 into a Court Decree against the Respondent for the sum of Kshs. 303,299/=.
 2. That the costs of this application be provided for.
2. The grounds thereof are that:-
 - a. The Respondent instructed the firm of Cootow & Associates Advocates to defend her as an Administrator of the Estate of Rahab Wanjiru Evans in the Nakuru Misc. Civil Application No. 269 of 2014 where the Respondent was sued by one Musembi Ndolo T/Aa Musembi Ndolo & Company Advocates.
 - b. The Advocate’s services were not paid and as such the Applicant filed an Advocate/Client Bill of Costs for taxation and was taxed at Kshs. 303, 299 /= on 1st February 22016.
 - c. The Respondent has refused , declined and /or failed to settle the taxed amount.



- d. It is in the interest of justice that the orders sought be granted as prayed as for purposes of recovery of the costs from the Respondent who has deliberately refused to pay.
3. In support of the application is the Affidavit sworn on 12th March 2025 by Eva W. Kahiti Anthony Advocate where the Applicant reiterates the grounds on the face of the application and she annexed the Certificate of Taxation.
4. Despite service, the Respondent did not attend court or file a response. Determination
5. The only issue for determination is whether the orders sought should issue.
6. Section 51 of the *Advocates Act* provides that:-
- (1) Every application for an order for the taxation of an advocate's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an advocate shall be made in the matter of that advocate.
 - (2) 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.
7. From the Court record, it is noted that indeed the Advocate /Applicant acted for the Respondent in High Court Misc. Application No. 269 of 2014 where Applicant was for the Respondent in the said matter.
8. In the Bill of Costs dated 1st February 2016, Respondent herein was duly represented by a counsel and the bill was duly taxed at Kshs. 303,299/= on 16th September 2024. The Taxing Officer issued a Certificate of Taxation of Costs dated 26th November 2024.
9. Though there appears to be a notice of objection filed by the firm of S.M. Omae & Company Advocates dated 27th September 2024 , there is no evidence of any further activity by the Respondent towards the said objection. The Certificate of Taxation has not been set aside or altered by the Court. That Certificate is therefore final and taxed costs have not been settled and therefore in the circumstances herein, the application dated 17th March 2025 is allowed in the following terms:-
1. The Certificate of taxation dated 26th November 2024 be and is hereby converted into a judgment for the sum of Kshs. 303,299/= and a decree issued to that effect.
 2. The Costs of the Application awarded to the Advocate/Applicant.

DATED , SIGNED AND DELIVERED AT NAKURU THIS 28TH DAY OF JULY , 2025.

PATRICIA GICHOHI

JUDGE

In the presence of:

Ms. Omolo h/b fro Ms. Kahiti for Advocate/Applicant

N/A for the Client/Respondent

Ruto, Court Assistant

