



**CM Advocates LLP v Gaceru (Miscellaneous Application
E015 of 2023) [2025] KEHC 9662 (KLR) (Civ) (4 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9662 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

MISCELLANEOUS APPLICATION E015 OF 2023

H NAMISI, J

JULY 4, 2025

BETWEEN

CM ADVOCATES LLP APPLICANT

AND

NJERI GACERU RESPONDENT

RULING

1. The Applicant has filed Notice of Motion dated 31 October 2023, brought under section 51(2) of the *Advocates Act*, Order 51 of the *Civil Procedure Rules* and sections 1A and 1B of the *Civil Procedure Act*. The Application seeks the following orders:
 - i. That the court be pleased to order that the Certificate of Taxation dated 23rd August 2023, issued to the Applicant, as against the Respondent, be converted into a judgement and decree of this court and consequently, a judgement be entered for the applicant against the Respondent, for (Kshs. 1,524,642.10).;
 - ii. That interest does accrue on the sum of (Kshs. 1,524,642.10), at the rate of 14% per annum, with effect from 19/01/2023, until payment shall be made in full, as prescribed in paragraph 7 of the *Advocates Remuneration Order*;
 - iii. That the costs of the Application be provided for.
2. The Application is supported by an Affidavit sworn by Caroline K. Kithinji, Advocates which avers as follows:
 - a. The Advocate/Applicant filed a Party-to-Party Bill of Costs dated 19 January 2023;
 - b. The said Bill of Costs was taxed at Kshs 1,524,642.10;



- c. A certificate of taxation was issued by the Honorable Deputy Registrar on 23 August 2023;
 - d. The Respondent/Client has failed/neglected to pay the fees set out in the Certificate of Costs.
3. In response thereto, the Respondent filed a Replying Affidavit 18 September 2024. The basis of the Respondent’s opposition is that she has resided in the USA at all material times and was unaware of the taxation proceedings despite the email communication by the Advocate/Applicant. The Respondent avers that it would be unjust and unfair for the Application to be allowed since she was deprived the opportunity to challenge the Bill of Costs at the time of taxation.
 4. Parties were directed to file their submissions. Although the Respondent was accorded ample time to do, no submissions were filed.
 5. In their submissions, the Appellant identified 3 issues for determination:
 - i. Whether the Advocate/Applicant has met the threshold for entry of judgement as per the Certificate of Costs dated 23 August 2024;
 - ii. Whether interest ought to be awarded as sought in the Application;
 - iii. Whether the Application as filed is merited and ought to be allowed.
 6. I note that this matter is related to Misc Application No. E175 of 2024 between the same parties, wherein the Client had filed an application seeking leave to file a reference out of time. The said application was dismissed. That being the case, part of the Respondent’s opposition to the application herein is of no consequence.
 7. Section 51 (2) of the [Advocates Act](#) provides as follows:

Pursuant to the provisions of Section 2 of the [Advocates Act](#) – “Client’ includes any person who, as a principal or on behalf of another, or as a trustee or personal representative, or in any other capacity, has power, express or implied, to retain or employ an advocate and any person who is or may be liable to pay an advocate any costs.
 8. In the case of [Musyoka & Wambua Advocates v Rustam Hira Advocate](#) (2006) eKLR it was held thus:

“Section 51 of the *Act* makes general provisions as to taxation, as the marginal note indicates. One of those provisions is that the court has discretion to enter judgment on a Certificate of Taxation which has not been set aside or altered, where there is no dispute as to retainer. This in my view is a mode of recovery of taxed costs provided by law, in addition to filing of suit....”
 9. Having read the Application, Affidavits as well as the attached documents, I am of the considered view that the same is merited. The Application is allowed and I make the following orders:
 - i. Judgement is hereby entered for the Applicant against the Respondent in terms of the Certificate of Costs dated 23 August 2023 for Kshs 1,524,642.10.
 - ii. Interest thereon is awarded at the rate of 14% per annum from 23 August 2023 until payment in full.
 - iii. The Applicant is awarded costs assessed at Kshs 30,000/=.

DATED AND DELIVERED AT NAIROBI THIS 4 DAY OF JULY 2025

HELENE R. NAMISI



JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

For Applicant: Ms Kiarie h/b Ms. Mumbi

For Respondent: N/A

Libertine Achieng..... Court Assistant

