



**Kiongo & 2 others v APA Insurance Company Limited (Miscellaneous Civil Application E218 of 2024) [2025] KEHC 10743 (KLR) (21 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10743 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
MISCELLANEOUS CIVIL APPLICATION E218 OF 2024**

**PN GICHOHI, J**

**JULY 21, 2025**

**BETWEEN**

**PAUL MURIMI KIONGO ..... 1<sup>ST</sup> APPLICANT**

**ANDERSON OMONDI MBAO ..... 2<sup>ND</sup> APPLICANT**

**ASTON MUCHELA ONG'ENGE P/A MURIMI, NDUMIA, MBAGO &  
MUCHELA ADVOCATES ..... 3<sup>RD</sup> APPLICANT**

**AND**

**APA INSURANCE COMPANY LIMITED ..... RESPONDENT**

**RULING**

1. The Advocates / Applicants filed a Notice of Motion dated 28<sup>th</sup> April 2025 and brought under Section 51 (2) of the *Advocates Act* seeking seeks Orders :-
  1. That judgment be entered for the Applicants against the Respondent for the sum of Kshs. 70,200/= being the certified costs due to the Applicants against the Respondent.
  2. That the Respondent to pay the Applicants costs of this application together with interest on the taxed sum.
2. The grounds are on the face of the Application supported by the Affidavit sworn by Paul Murimi Kiongo Advocate. The Applicants state that the Respondent engaged them to defend their insured (Defendant) in Molo CMCC. No. 159 of 202i *Calisto Aungo Kuta v Glokems & Co. Associates Limited*.
3. The Advocate/Client costs due to the Applicants were taxed at Kshs. 70,200/- on 28<sup>th</sup> March 2025 and a certificate issued to that effect. However, the Respondent has failed, neglected and or/failed to settle the said costs yet there is no dispute that the Respondent engaged the Applicants in respect of which the Advocate-Client costs were taxed herein.



4. They therefore urged the Court to allow the application as prayed.

### **Determination**

5. After considering this application and the annexures thereto, the only issue for determination is whether the application herein has met the legal threshold to warrant the orders sought.

6. There is evidence from the lower court on record availed to this Court that indeed, the Applicants duly acted for the Respondent in the above stated case where they filed on 13<sup>th</sup> October 2021, a Memorandum of Appearance dated 29<sup>th</sup> September 2021, together with a Statement of Defence dated 30<sup>th</sup> September 2021, as confirmed by the letter of instructions from the Respondent dated 30<sup>th</sup> August, 2021.

7. On 16<sup>th</sup> May 2023, the parties entered into a consent and Judgment was entered in favour of the Plaintiff against the Defendant in the sum of Kshs. 140,000/= all inclusive.

8. The record also shows that Applicant's Advocate /Client Bill of Costs dated 22<sup>nd</sup> July, 2024 was served on the Respondent but there was no response and the Respondent did not attend court for taxation. Consequently, the Bill was not challenged and therefore, the taxing officer proceeded to tax the Bill as stated herein and a certificate issued to that effect.

9. It is also noted that despite being served with this application on 27<sup>th</sup> May 2025, the Respondent did not file any response and did not attend this Court either. The Certificate of Costs has not been set aside and there are no outstanding proceedings to set it aside. It has not been stayed or appealed against.

10. Section 51 (2) of the [Advocates Act](#) provides that:-

“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.”

11. In the circumstances, the Certificate of Taxation dated 28<sup>th</sup> March 2025 is therefore final.

12. Further, paragraph 7 of the [Advocates \(Remuneration\) Order](#) provides that:

“An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.”

13. In the circumstances, application dated 28<sup>th</sup> April 2025 is allowed in the following terms:-

1. Judgment be and is hereby entered in favour of the Applicant as against the Respondent in the sum of Ksh. 70,200/= together with interest thereon at fourteen (14%) per cent per annum calculable after Thirty (30) days from the date when this application was served upon the Respondent until payment in full.
2. The Applicants are at liberty to execute the same as against the Respondent.
3. Costs of the Application are awarded to the Applicants.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 21<sup>ST</sup> DAY OF JULY, 2025.**



**PATRICIA GICHOHI**

**JUDGE**

In the presence of:

Mr. Mwenda h/b for Mr Muchela for Applicant

N/A for the Respondent

Ruto, Court Assistant

