



**Lubulellah & Associates, Advocates v China Young Tai Engineering
Company Limited (Miscellaneous Civil Application E613 of 2024)
[2025] KEHC 10344 (KLR) (Commercial and Tax) (16 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10344 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS CIVIL APPLICATION E613 OF 2024**

JK NG'ARNG'AR, J

JULY 16, 2025

BETWEEN

LUBULELLAH & ASSOCIATES, ADVOCATES ADVOCATE

AND

CHINA YOUNG TAI ENGINEERING COMPANY LIMITED CLIENT

JUDGMENT

1. Before is an application dated 4/2/2025. It was brought under section 51 of the *Advocates Act*, rule 13A Advocates Remuneration Rules, order 41 rule 1 of the Civil Procedure Rules and section 3A, 63 (e) of the Civil Procedure Rules.
2. It sought orders that judgment be entered and a decree issued in favour of the applicant as against the respondent on the amount of Kshs. 839,923.90/= as certified in the certificate of taxation issued on 31/1/2025 with interest at 14% per annum from 31/7/2024 being the filing date of the bill of costs until payment in full.
3. The application was supported by the affidavit of Anthony Milimu Lubulellah sworn on 4/2/2025. The applicant's case was that the advocate's and client's bill of costs was taxed at Kshs. 839,923.90/= and he wished to proceed with execution.
4. The respondent did not file any response.
5. Parties were directed to file written submissions. The applicant's were dated 8/5/2025 whereas the respondent's were dated 15/10/2024.



6. I have considered the pleadings, evidence and written submissions filed by both parties which are on record. The main issue for determination is whether the certificate of taxation issued on 31/1/2025 ought to be adopted as an order of the court.

7. I begin by noting that the respondent challenged the taxing master's decision vide its submissions. However, there was no reference filed before this court to lay ground for such submissions. Rule 11 (2) of the Advocates Remuneration Order provides that;

“ 11. Objection to decision on taxation and appeal to Court of Appeal

(1) Should any party object to the decision of the taxing officer, he may within fourteen days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.

(2) The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by chamber summons, which shall be served on all the parties concerned, setting out the grounds of his objection.

(3) Any person aggrieved by the decision of the judge upon any objection referred to such judge under subsection (2) may, with the leave of the judge but not otherwise, appeal to the Court of Appeal.

(4) The High Court shall have power in its discretion by order to enlarge the time fixed by subparagraph (1) or subparagraph (2) for the taking of any step; application for such an order may be made by chamber summons upon giving to every other interested party not less than three clear days' notice in writing or as the Court may direct, and may be so made notwithstanding that the time sought to be enlarged may have already expired.

8. Noting that no such application was placed before this court, the respondent could not then object to that decision via submissions.

9. Turning back to the application, the applicable law is found at Section 51(2) of the [Advocates Act](#) which 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 recovered thereby; and the court may make such orders in relation thereto as it thinks fit, including where the retainer is not disputed an order that judgment be entered for the sum of certified to be due with costs.”

10. It then follows that this court is empowered to enter judgment on the taxed amount if the same is uncontested. However, the court ought to satisfy itself that the certificate of taxation has not been set aside before determining whether to adopt the amount on the said certificate.



11. In the case of Lubulellah & Associates Advocates Vs N. K. Brothers Limited (2014) eKLR it was stated that: -

“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of Costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for the recovery of costs. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the Applicant against the Respondent herein for the taxed sum indicated in the Certificate of Taxation that was issued on 25th November 2012.”

12. The record reflects that the taxing master’s ruling remains uncontested noting that the respondent did not file any references against such ruling. The ruling has also not been set aside or reviewed and there is no evidence that any appeal been filed. Consequently, there is no other action required from this court other than to enter judgment as prayed against the Respondent.

Whether interest at 14% is applicable on the advocates costs

13. It was the applicant’s prayer that he be awarded interest on the taxed costs at 14% per annum until payment in full. However, the applicant did contend that he served the respondent with any demand for settlement of the certificate of taxation. See Kioko t/a Urbanus K & Associates Advocates v Trident Insurance Company Ltd (Miscellaneous Application E264 of 2021) [2024] KEHC 10515 (KLR).

14. Rule 7 of the Advocates Remuneration Order provides that: -

“An advocate may charge interests at 14% per annum on his disbursement and costs whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, such claim for interests is raised before the amount of the bill has been paid or tendered in full.”

15. From the above, the claim for interest ought to be raised before for it to start to accrue after the expiration of one month from the delivery of the bill to the client.

16. In the case of Kerongo & Company Advocates Vs Africa Assurance Merchant Co. Limited [2019] eKLR the court held -;

“An advocate who does not provide proof that he had raised the issue of interest before the amount in the Bill of Costs has been paid or tendered in full will not be paid the interest chargeable under Rule 7 of the Advocates Remuneration Order. As the advocates herein had not demonstrated that they had raised the issue of interest as aforesaid, they could not therefore be awarded interest at fourteen (14%) per cent per annum.”

17. From the record, there is no evidence that the applicant made a claim for interest or demand for settlement of the bill. The pray for interest cannot issue.

18. In the end, I find that the application dated 4/2/2025 is partially successfully and proceed to order as follows: -

- i. The Certificate of Taxation dated 31/01/2025 in the sum of Kshs. 839,923.90/= is hereby adopted as a Judgment of this court.
- ii. The prayer for interest lacks merit and disallowed.



iii. Each party to bear its own costs.

It is so ordered.

**JUDGEMENT DATED, SIGNED AND DELIVERED VIRTUALLY THIS 16TH DAY OF JULY, 2025
IN THE PRESENCE OF;**

.....

J. NG'ARNG'AR

JUDGE

Lubulellah for the Appellant

N/A for the Respondent

Mark/Siele (Count Assistants)

