



REPUBLIC OF KENYA



Mwangi Mukira & Company Advocates v Mwangi (Miscellaneous Civil Application 1 of 2020) [2025] KEHC 10755 (KLR) (21 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10755 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CIVIL APPLICATION 1 OF 2020**

PN GICHOHI, J

JULY 21, 2025

IN THE MATTER OF NAKURU H.C.JUDICIAL REVIEW NO. 13 OF 2017

AND

IN THE MATTER OF ADVOCATES REMUNERATION ORDER

BETWEEN

MWANGI MUKIRA & COMPANY ADVOCATES APPLICANT

AND

FRANCIS MUTONYI MWANGI RESPONDENT

RULING

1. Vide a Chamber Summons dated 9th February 2023 and brought under Section 1A, 3 and 3A of the Civil Procedure Rules, Rule 13 of the Advocates Remuneration Order, the Advocate /Applicant seeks Orders:-
 1. That the certificate of costs arising from a taxation Ruling delivered by Hon. M. Kyalo on 3rd August 2021 be adopted as a Judgment of this Honourable Court .
 2. That a Decree be issued pursuant to the said Certificate of Costs.
 3. That the costs of this application be provided for.
2. The two grounds thereof are that the ruling arises out of a taxation of Advocate/Client bill of costs dated 14th January 2020 and that it is necessary to adopt it as judgment of the court to enable the Applicant execute.
3. In support of the application the Affidavit sworn on 9th February 2020 by Anthony Mukira Advocate, the Applicant states that the Bill of Costs was taxed on 3rd August 2021 at the sum of Kshs. 143,390/= as per the annexed a copy of the Certificate of Costs.



4. This application has not been responded to. When the matter was before court on 17/7/2023, the Applicant intimated that when the process server went to serve Respondent, he found him admitted in hospital. The application was adjourned to 11/10/2023 and the Applicant was to serve the hearing Notice.
5. When the matter finally came for hearing on 25/6/2025, the Applicant informed the Court that as per the Affidavit of Service sworn by the Process server on 1/9/2025, the Process Server tried to call the Respondent through his cell phone so as to serve the hearing notice but he declined to pick the call. The process server opted to serve through WhatsApp and he acknowledged receipt.
6. Counsel further told the court that the Respondent had called him that morning saying the that he was to attend court as scheduled. However, the Respondent never logged in and did not file any response. Counsel therefore sought a ruling date for this application.

Determination

7. After considering this application and the affidavit of service herein, the only issue for determination is whether the application herein has met the legal threshold to warrant the orders sought.
8. Rule 13 of the [Advocates Remuneration Order](#) provides as follows in respect of taxation of costs as between advocate and client on application of either party:-
 - “ 1. The taxing officer may tax costs as between advocate and client without any order for the purpose upon the application of the advocate or upon the application of the client, but where a client applies for taxation of a bill which has been rendered in summarized or block form the taxing officer shall give the advocate an opportunity to submit an itemized bill of costs before proceeding with such taxation, and in such event the advocate shall not be bound by or limited to the amount of the bill rendered in summarized or block form.
 1. Due notice of the date fixed for such taxation shall be given to both parties and both shall be entitled to attend and be heard.
 2. The bill of costs shall be filed in a miscellaneous cause in which notice of taxation may issue, but no advocate shall be entitled to an instruction fee in respect thereof.”
9. The Applicant’s Advocate /Client Bill of Costs dated 14th January, 2020 was indeed duly served on the Respondent together with the Notice of Taxation but there was no response. The Bill was therefore not challenged and there is no evidence of dispute as to retainer.
10. Vide a ruling dated 3rd August 2021, the Bill was duly taxed by the Deputy Registrar at Kshs. 134,390/= and a Certificate of Taxation issued to that effect on 3rd August 2021.
11. As stated earlier, 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.
12. 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.”

13. In the circumstances, the Certificate of Taxation dated 3rd August 2021 is therefore final and the application dated 9th February 2023 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. 143,390/= 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. A Decree is issued to that effect and the Applicant is at liberty to execute the same as against the Respondent.
 3. Costs of this application are awarded to the Applicant.

DATED , SIGNED AND DELIVERED AT NAKURU THIS 21ST DAY OF JULY , 2025.

PATRICIA GICHOHI

JUDGE

In the presence of:

N/A for Advocate/Applicant

N/A for the Client/Respondent

Ruto, Court Assistant

