



REPUBLIC OF KENYA



KENYA LAW
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Samuel Gitonga & Associates v Monarch Insurance Company Limited (Miscellaneous Application E010 of 2025) [2025] KEHC 9884 (KLR) (2 July 2025) (Ruling)

Neutral citation: [2025] KEHC 9884 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
MISCELLANEOUS APPLICATION E010 OF 2025**

GL NZIOKA, J

JULY 2, 2025

BETWEEN

SAMUEL GITONGA & ASSOCIATES APPLICANT

AND

THE MONARCH INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. By a notice of motion application dated 18th March 2025 brought under the provisions of, section 51(2) of the [Advocates Act](#) (Cap 16) Laws of Kenya and Order 51 Rule 1 of the [Civil Procedure Rules 2010](#), the applicant is seeking for the following orders: -
 - a. That judgment and decree be entered for the sum of One Hundred and Seventy-Eight Thousand, Seven Hundred and Fifty-Four (Kshs 178,754.00/=) as taxed and certified by the Deputy registrar as due to the applicant.
 - b. That the applicant be at liberty to execute against the respondent.
 - c. That the costs of this application be borne by the respondent.
2. The application is based on the grounds thereto and an affidavit of even date sworn by Brian Otunga Mungai an Advocate of the High Court who has conduct of this matter behalf of the applicant
3. He avers as here below reproduced: -
 - a. That the applicant received instructions from the respondent to defend a suit on its behalf under the doctrine of subrogation which suit was instituted against its insured being Naivasha Chief Magistrate's Civil Suit No E060 of 2020 between Gedion Waweru Kanai and Peter Wachira Gitonga.



- b. That on 10th June 2021, the final judgment in the primary suit was delivered by the trial court and the said case was closed.
 - c. That the applicant sent their fee note to the respondent for payment of our fees but the respondent declined and/or neglected to settle the fee note necessitating the applicant to prepare and file an advocate-client bill of costs dated 6th February 2025.
 - d. That the advocate-client bill of costs was heard and determined before the Honourable Deputy Registrar.
 - e. That the Honourable Deputy Registrar taxed the bill of costs at One Hundred and Seventy Eight Thousand, Seven Hundred and Fifty Four (Kshs 178,754.00/=) and a certificate of taxation issued.
 - f. That no reference has been filed seeking to review, vary or set aside the Deputy Registrar's ruling.
 - g. That the respondents have failed, neglected and/or refused to settle the applicant's costs as set out in the certificate of taxation.
4. Upon considering the application, on 30th April 2025 the court ordered that, the matter be served for hearing on 15th May 2025. On that, date, the court was informed that, the respondent had been effectively served with the hearing notice. However, the respondent was absent. The matter is now deemed to be unopposed.
5. In further consideration of the matter, I note that, it is anchored on the provisions of section 51(2) of the *Advocates Act* that states as follows: -
- “The certificate of a taxing officer by whom it has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of 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.”
6. In the instant matter the applicant has provided a certificate of taxation dated, 17th March 2025, wherein the amount indicated is Kshs 178,754.00. The same has not been set aside nor varied.
7. Similarly, there is no dispute as to the retainer. Consequently, the application is allowed as prayed in terms of prayer (1).
8. As regards interest, I have no evidence that a demand was made of the taxed amount and the same not honoured. Therefore, interest shall accrue on the subject amount from the date of service of the application herein until payment in full.
9. It is so ordered.

DATED, DELIVERED AND SIGNED THIS 2ND DAY OF JULY 2025

GRACE L. NZIOKA

JUDGE

In the presence of:

Mr. Olunga for the applicant



N/A for the respondent

Ms. Hannah: court assistant

