



**Susan Kahoya & Company Advocates v Njiru (Miscellaneous Application E845 of 2023)
[2025] KEHC 12758 (KLR) (Commercial and Tax) (18 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12758 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E845 OF 2023**

**JK NG'ARNG'AR, J
SEPTEMBER 18, 2025**

BETWEEN

SUSAN KAHOYA & COMPANY ADVOCATES APPLICANT

AND

CHRISTOPHER NDWIGA NJIRU RESPONDENT

RULING

1. Before this Court for determination is a Notice of motion application dated 30th August 2023 expressed in terms of Section 51(2) of the *Advocates Act*, Paragraph 4 and 7 of the Advocates Remuneration (Amendment) Order, Order 51 rule 1 of the Civil Procedure Rules and all enabling provisions of the law. The application seeks the following orders against the Respondent;
 - i. That the Honourable Court be pleased to order the Certificate of Costs herein dated 21st June 2024, issued in favour of the Applicant, as against the Respondent, be converted into a judgment and decree of this court and consequently, a judgment be entered in favour of the Applicant against the Respondent for Kshs. 1,376,760/-.
 - ii. That interest due accrue on the sum of Kshs. 1,376,760/-, at the rate of 14% per annum as prescribed in paragraph 7 of Advocates Remuneration Order, from 21st July, 2024 (30 days after delivery of ruling on taxation) until paid in full.
 - iii. That the costs of this application be awarded to the Applicant.
2. The application is premised on the grounds on its face and supported by the annexed affidavit of Susan Mbaire Kahoya sworn on 30th August 2024. In the said affidavit she avers that she is the proprietor in the law firm of Susan Kahoya & Company Advocates and well versed with the matters in issue. She states that pursuant to the Respondent's instructions issued to the Applicant on 5th May 2019,



the Applicant acted for/represented the Respondent in two transactions involving the Respondent's purchase of Land Title No. Ngong/Ngong/38954 from Anthony Gaita Warui at a consideration of Kshs. 45,000,000/= and subsequently charging the same to NIC Bank Kenya PLC. Therefore, the issue of retainer and advocate/client relationship are not in dispute.

3. According to the applicant, inspite of the Applicant delivery of its mandate in full, the Respondent did not pay any penny including payment of stamp duties inspite of numerous promises to do so occasioning the Applicant to file a Bill of Costs dated 29th September, 2024.
4. The applicant stated that the Respondent was duly served with the said Bill of Costs and Notice of taxation and despite making personal appearances and on the taxation day through an advocate, did not file any response to the Bill of Costs.
5. She states that the Bill of costs was heard by court and vide a ruling dated 21st June 2024 taxed in the sum of Kshs. 1,376,760/= and a Certificate of Costs duly issued. The Respondent was notified of this ruling and no objection has raised with regard to the taxation. It is imperative that an order do issue converting the Certificate of Taxation into a judgment and decree of court as contemplated under the law for the Applicant to commence recovery of his fees from which he has been kept away from for several years now.
6. The Respondent did file any response to the present application despite being served.
7. This application dated 30th August 2024 was canvassed by way of written submissions. The applicant complied and filed submissions dated 26th May 2025 whereas no submissions were filed on behalf of the Respondent. complied and filed his submissions dated 4th September 2024.

Applicant's submissions

8. The applicant submitted that certificate of costs having been issued on 21st June 2024 and the Respondent not having filed any objection, the certificate of costs per the provisions of Section 51(2) of the Advocates Act is final with respect to the costs of service rendered and this court is called upon to enter judgement for the sum certified. The applicant sought for entry of an order of judgment on the amount on the certificate of costs.
9. On interest, the applicant relied on Paragraph 7 of the Advocates Remuneration (Amendment) Order and prays for that interest at the rate of 14% per annum be allowed on the taxed costs from 21st July 2024, a month from the date of taxation of the Bill of costs.

Analysis and Determination

10. I have considered the application and the supporting affidavit alongside the applicant's submissions and the sole issue arising for determination is whether this court should enter a judgement for the sum of Kshs. 1,376,760/= plus costs and interest.
11. From the record, the application is unopposed as the Respondent did not file any response despite being served.
12. The relevant provision on entry of judgment from a certificate of costs is Section 51(2) of the Advocates Act. It 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.”

13. It is clear from the aforementioned provision that this Court has power to enter judgment on taxed costs if the same has not been set aside or altered by the court.

14. The application of Section 51 of the *Advocates Act* on conversion of the certificate of costs into a judgment and decree was explained in the case of Kalonzo Musyoka & Paul M. Wambua (Practicing as Musyoka & Wambua, Advocates) vs Rustam Hira (Practicing as Rustam Hira, Advocate) [2006] KEHC 3078 (KLR) as follows;

“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 the discretion to enter judgment upon 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 the law, in addition to the filing of suit, where such suit would be unnecessary because, one, the certificate of taxation has not been set aside or altered and, two, there is no dispute as to retainer. Unless there is any other matter as would require ventilation in a trial, what would be the necessity of filing suit? In my view the court would be entitled to enter judgment under section 51(2) even where there is no suit filed. I so hold.”

15. In the instant application, the Respondent did not object to the certificate of costs neither did he file a reference to have it set aside. In the absence of any objection the certificate of costs issued on 21st June 2024 is adopted as a judgment of this court.

16. The applicant also sought for interest at the rate of 14% per annum from 21st July 2024, a month from the date of taxation of the Bill of costs. Paragraph 7 of the Advocates Remuneration (Amendment) Order stipulates 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.”

17. The above provision was echoed in the case of Kithi & Company Advocates vs Menengai Downs Limited [2015] KEHC 6334 (KLR) where the Court held that;

“An Advocate is entitled to interest on the amount taxed on an Advocate/client Bill of Costs. The rate of interest awardable is 14% per Annum applicable from 30 days after the date of service of either the Block Fee Note or the Bills of Costs.”

18. In the end, this court issues the following orders;

- i. The Notice of motion application dated 30th August 2023 is allowed as prayed.
- ii. Judgement be and is hereby entered in favour of the applicant in the sum of Kshs. 1,376,760/ = as per the certificate of taxation issued on 21st June 2024.
- iii. The applicant shall have interest is allowed at the 14% per annum from 21st July 2024.
- iv. Each party will bear its own costs for this application

It is so ordered.



RULING DELIVERED, DATED AND SIGNED VIRTUALLY THIS 18TH DAY OF SEPTEMBER, 2025.

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HON JULIUS K. NG'ARNG'AR

JUDGE

Ruling delivered in the presence of:

Siele/Susan (Court Assistants)

Gachoha holding brief for the Applicant

No appearance for the Respondent

