



**Gathemia t/a Gathemia & Company Advocates v Ngemnda Location Ranching Co Limited
(Miscellaneous Application E145 of 2022) [2024] KEHC 1244 (KLR) (14 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1244 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS APPLICATION E145 OF 2022
PN GICHOHI, J
FEBRUARY 14, 2024**

IN THE MATTER OF THE ADVOCATES AND CLIENT BILL OF COSTS

BETWEEN

**GATHERU GATHEMIA T/A GATHERU GATHEMIA & COMPANY
ADVOCATES APPLICANT**

AND

NGEMNDA LOCATION RANCHING CO LIMITED RESPONDENT

*(Arising from HCC No. 336 of 2019 formerly ELC No. 12 of 2016
Zenith Realtors Ltd vs Ngenda Location Ranching Co. Ltd & Anor)*

RULING

1. By a Notice of Motion Application dated 16th August 2023 brought under Article 159 of the Constitution of Kenya, Section 51 (2) of the Advocates Act and Rule 7 of the Advocates Remuneration Order and the inherent jurisdiction of the Court, the Applicant seeks orders that:-
 1. Judgment be entered for the Applicant against the Respondent for Kshs 2,337,547/= being the Advocates fees taxed as per the Certificate of Taxation dated 4th August, 2023.
 2. The Applicant be awarded interest at 16 % per annum from 1st March , 2023 being the date on which the Bill of Costs was served on the Respondent.
 3. Costs be in the cause.
2. The grounds are on the face of the Application supported by the Affidavit sworn by Gatheru Gathemia Advocate on 16th August, 2023. He depones that there is no dispute as to the retainer and that the Applicant's costs herein were taxed at Kshs 2,337, 547.44 on 25th July 2023 and a Certificate of Taxation



issued as against the Respondent and which he served on the Respondent. However, the same has not been set aside or successfully appealed against.

Determination

3. A perusal of the court record shows that the Respondent was duly served with the Bill of Costs. The Advocate for the Respondent sought to file his response thereto and was given 21 days to file and serve. He indeed filed his submissions dated 23rd May, 2023.
4. Subsequently, the Taxing Officer did tax the said Bill of Costs at Kshs 2,337,547.44 vide her ruling delivered on 25th July, 2023.
5. There has been no dispute as to the retainer. There has been no reference to the ruling on taxation. The Certificates of Taxation herein has not been set aside or altered by this Court and therefore, the same is considered final as per 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 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. Further, though served with this Application, the Respondent did not file any response and therefore, the Application remains unopposed.
7. As regards the Applicant’s prayer for interest at 16 % per annum, the Applicant has not shown any justification for that rate. 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.”

8. In the circumstances, the Applicant is entitled to interest at the rate of 14% per annum as provided for by the law.
9. The Application dated 10th November, 2023 is therefore allowed as follows:-
 1. Judgment be and is hereby entered in favour of the Applicant as against the Respondent for Kshs 2,337,547.44.
 2. The Applicant is awarded interest on the said sum at the rate of fourteen (14%) per cent per annum calculable after Thirty (30) days from 1st March, 2023 when the Bill of Costs was served upon the Respondent, until payment in full.
 3. Costs of the Application are awarded to the Applicant.

DATED, SIGNED AND DELIVERED AT NAKURU (VIRTUAL) THIS 14TH DAY OF FEBRUARY, 2024.

PATRICIA GICHOHI

JUDGE

In the presence of:



MCronald for the Applicant
N/A for the Respondent
Laureen Njiru, Court Assistant

