



**Sim Advocates LLP v Zohari Leasing Limited (Miscellaneous Civil Application E060 of 2022) [2024] KEHC 1507 (KLR) (5 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1507 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
MISCELLANEOUS CIVIL APPLICATION E060 OF 2022  
GL NZIOKA, J  
FEBRUARY 5, 2024**

**BETWEEN**

**SIM ADVOCATES LLP ..... APPLICANT**

**AND**

**ZOHARI LEASING LIMITED ..... RESPONDENT**

**RULING**

1. By a notice of motion application dated 11<sup>th</sup> September 2023, brought under the provisions of; section 51 (2) of the *Advocates Act* (cap 16) Laws of Kenya, paragraph 7 of the *Advocates Remuneration Order* and order 51 rule 1 of the *Civil Procedure Rules*, the applicant is seeking for the following orders: -
  - a. That judgment be entered for the taxed advocate-client costs of Ksh. 109,193.70 as contained in the certificate of costs dated June 29, 2023, with interest thereon at the rate of 14% p.a. with effect from April 27, 2023 until payment in full.
  - b. That the costs of this application be provided for.
2. The application is supported by the grounds on the face of it and an affidavit sworn by Anthony Simiyu, an Advocate of the High Court of Kenya and a partner in the applicant's firm. He deposed that, the respondent retained the applicant's firm to defend it in Chief Magistrate's civil suit No. 225 of 2020.
3. The firm represented the respondent as instructed and filed an advocate-client bill of costs, which was taxed on April 27, 2023, was taxed at Ksh. 101,193.70, and a certificate of taxation issued on June 29, 2023. That the the applicant firm was issued with certificate has not being varied and/or set aside by any court.



- 4. Further, despite demand for payment the respondent has not paid the taxed sum and remains indebted to the applicant thus prejudicing the applicant by keeping it away from its legal fees. Therefore, it is in the interest of justice that the application is allowed.
- 5. Upon considering the application, the court ordered that, the same be served for further orders on June 20, 2023. On the material date, none of the parties appeared in court and the court set the matter for a mention on June 28, 2023. However, that date fell on a public holiday and the matter was set for a further mention on June 30, 2023.
- 6. The application was served upon the respondent for direction inter-partes on December 13, 2023 but they were not in court. The matter was then set for oral hearing on February 1, 2023, but again the respondent was not in court. As such the application is deemed unopposed.
- 7. I allow the same as prayed and find it has merit as it is uncontested. However, the interest on the judgment sum, will be payable from the date of service of demand after the certificate of taxation was obtained. I note from the documents annexed to the application that the only document availed is the certificate of taxation, thus it is not possible to tell when the demand for payment was made if at all. Therefore, the need to ascertain the same, as the mere provision of the certificate of taxation without evidence of demand for payment may be prejudicial to the respondent. The interest rate will be at court rates.
- 8. It is so ordered.

**DATED, DELIVERED AND SIGNED ON THIS 5TH DAY OF FEBRUARY, 2024.**

**GRACE L. NZIOKA**

.....

**JUDGE**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

**In the presence of;**

N/A for the applicant

N/A for the respondent

Ms. Ogutu court assistant

