



**Manyonge Wanyama & Associates LLP v Kisii County Public Service Board (Miscellaneous Application 255 of 2022) [2024] KEHC 4496 (KLR) (14 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 4496 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISII  
MISCELLANEOUS APPLICATION 255 OF 2022**

**JM CHIGITI, J  
MARCH 14, 2024**

**BETWEEN**

**MANYONGE WANYAMA & ASSOCIATES LLP ..... APPLICANT**

**AND**

**KISII COUNTY PUBLIC SERVICE BOARD ..... RESPONDENT**

**RULING**

1. The application before this court is dated 5<sup>th</sup> June 2023 wherein the Applicant is seeking for orders:
  1. That this Honourable Court do enter judgment against the Respondent for the sum of Kenya Shillings Seven Hundred and Thirty-Six Thousand and Twenty Shillings only (Kshs. 736,020/=) being the taxed and certified costs payable to the Applicant by the Respondent.
  2. That this Honourable court do award interest on the aforesaid sum of Kshs. 736,020/= at court rates from the date of such award until payment in full.
  3. That the costs of this Application be paid by the Respondent.
2. The application is supported by the Affidavit of Peter Wanyama.
3. The Applicant acted on behalf of the Kisii County Public Service Board in Kisii Constitutional Petition no. 9 of 2021: David Nvaro . I Nvakweba & another versus the County Assembly of Kisii and others (Kisii County Public service board as the 1<sup>st</sup> and 2<sup>nd</sup> interested party).
4. The Applicant filed an Advocate-Client Bill of Costs dated 16<sup>th</sup> November 2022 in Kisii Misc. Application No. 255 of 2022: Manyonge Wanyama & Associates LLP versus Kisii County Public Service Board
5. On 22<sup>nd</sup> May 2023 the Advocate-Client Bill of Costs was taxed at Kenya Shillings Seven Hundred and Thirty-Six Thousand and Twenty shillings (Kshs. 736,020=).



6. A Certificate of Taxation dated 31<sup>st</sup> May 2023 was issued for the said amount which remains unsettled.
7. According to Peter Wanyama advocate the Applicant successfully discharged the mandate of offering Legal services in the matter as instructed and diligently proceeded with the matter until the Applicant received a Notice of Change of Advocates to the County Attorney, Kisii County Government.
8. The applicant would like the certificate of taxation to be adopted as a judgment so that it can proceed to extract the decree and execute in order to obtain the outstanding legal fees.

**The Interested Parties filed grounds of opposition.**

9. According to them, the application is a waste of time and otherwise an abuse of the due court process and the same is meant to prolong the litigation herein with the sole purpose of allowing the interest to accrue on the taxed costs.
10. It is their case that they were never served with the decree before filing this motion and they are more than willing to pay the decretal sum once the allocation of funds are available in the next allocation.
11. It is their case that they were not given time to process the payment as required as a result of which they should be given time to process payment of the decree herein.

**Analysis and determination;**

12. A Certificate of Taxation dated 31<sup>st</sup> May 2023 was issued in Kisii Misc. Application No. 255 of 2022: *Manyonge Wanyama & Associates LLP versus Kisii County Public Service Board* for Kenya Shillings Seven Hundred and Thirty-Six Thousand and Twenty shillings (Kshs. 736,0201=).
13. The Interested parties do not challenge the existence and the amount as indicated in the Certificate of Costs. All they argue is that they were not served with the decree. Of interest is the fact that they are more than willing to pay the decretal sum once the allocation of funds are available in the next allocation. All they want is to be given time to process payment of the decree herein.
14. Section 51(2) of the *Advocates Act* provides for entry of judgment on taxed costs 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.”
15. In the case of *Lubulellah & Associates Advocates vs N. K. Brothers Limited* [2014] eKLR, the court rendered itself on the finality of a certificate of costs as follows;
 

“The law is very clear that once a taxing master has taxed the costs, issued a certificate of costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for recovery of costs. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the applicant against the Respondent herein for the taxed sum indicated in the certificate of taxation that was issued on 25<sup>th</sup> November 2012.”
16. It is clear that the costs have been taxed and certified and the same is not in dispute. The court has discretion to enter judgment for the advocate as against the client for the taxed amount, as the certificate



of costs bears finality in respect to the costs owed by the client to the advocate, unless the same is set aside.

17. The applicant has made out a case within Section 51 of The *Advocates Act*.

**Orders:**

1. Judgment is hereby entered against the Respondents for the sum of Kenya Shillings Seven Hundred and Thirty-Six Thousand and Twenty Shillings only (Kshs. 736,020/=) being the taxed and certified costs payable to the Applicant by the Respondent.
2. Interest is issued at court rates from today's date until payment in full.
3. Costs to the Applicant.

**DATED, SIGNED, AND DELIVERED VIRTUALLY AT NAIROBI ON 14<sup>TH</sup> MARCH, 2024.**

.....

**J. CHIGITI (SC)**

**JUDGE**

