



Theuri & another t/a Kinyanjui Njuguna & Co Advocates v Obonyo (Miscellaneous Application 224 of 2021) [2024] KEHC 2159 (KLR) (6 March 2024) (Ruling)

Neutral citation: [2024] KEHC 2159 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS APPLICATION 224 OF 2021**

PN GICHOHI, J

MARCH 6, 2024

IN THE MATTER OF THE ADVOCATES ACT, CAP 16

AND

IN THE MATTER OF TAXATION OF COSTS BETWEEN ADVOCATE AND CLIENT

BETWEEN

**JOHN KINYANJUI THEURI & KARIUKI NJUGUNA T/A KINYANJUI
NJUGUNA & CO ADVOCATESCO ADVOCATES ADVOCATE**

AND

MESHACK OBONYO CLIENT

RULING

1. By a Notice of Motion dated 18th September 2023 brought under Order 51 Rule 1 of the [Civil Procedure Rules](#), Section 52 of the [Advocates Act](#) (Cap 16), Schedule 7 of the [Advocates \(Remuneration\) Order](#) of 2014, Section 1A & 3A of the [Civil Procedure Act](#), the Applicant seeks orders that:-
 1. Spent.
 2. Judgment/decree be entered in favour of the advocates against the client for the sum of Kshs. 90,879/= plus interest at 14% per annum from 2/10/ 2013 to 11/7/2023.
 3. The costs of the application be borne by the Client/Respondent.
2. The grounds are on the face of the Application supported by the Affidavit sworn by Kinyanjui Theuri Advocate on 18th September, 2023. He depones that the costs due to the Advocates from the Client for the services rendered in Nakuru CMCC No. 161 of 2011 were taxed by the court in the sum of Kshs. 90,879/= and a Certificate of Taxation issued but the Respondent has continually neglected/ and /or failed to pay legal fees despite demand and notice by the Applicant. He further depones that the Respondent does not dispute the fees.



Determination

3. The Court record shows that on 24/ 11/2021, the Advocate presented before Court the Advocate - Client Bill of Costs dated 01/11/2021. After hearing both parties, the Taxing Master rendered her Ruling in the presence of the parties on 11/07/2023, whereby she taxed the Bill at Kshs. 90,871.8. A Certificate of Costs was issued on 27th July , 2023 for a sum of Kenya Shillings Ninety Thousand , Eight Hundred Seventy-Nine only(Kshs. 90,879/=).
4. The Affidavit of Service on record shows that the Respondent was duly served with this Application he did not respond and did not attend Court. This Application is therefore unopposed.
5. There has been no dispute as to the retainer and there has been no reference to the ruling on taxation. The two Certificate of Taxation herein has not been set aside or altered by this Court and therefore final pursuant to 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. The Applicant is entitled to interest at the rate of 14% under Paragraph 7 of the Advocates (Remuneration) Order which 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.”

7. There is however no justification for interest to run from 02/10/2013 to 11/07/2023 as sought by the Applicant. The Advocate /Client Bill of Costs had not even been presented before court for taxation until 24/11/2021. The Application dated 18th September, 2023 is therefore allowed in the following terms:-

1. Judgment be and is hereby entered in favour of the Applicant as against the Respondents in the total sum of Ksh. 90, 879/= together with interest thereon at fourteen (14%) per cent per annum calculable after Thirty (30) days from the date the Bill of Costs dated 01/11/2021 was served Respondent until payment in full.
2. Costs of the Application are awarded to the Applicant.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 6TH DAY OF MARCH , 2024.

PATRICIA GICHOHI

JUDGE

In the presence of:

N/A for the Applicant

N/A for the Respondent

Ruto, Court Assistant

