



Kimani & Michuki Advocates v General Mills East Africa Ltd & another (Miscellaneous Application E085 of 2020) [2024] KEHC 5286 (KLR) (16 April 2024) (Ruling)

Neutral citation: [2024] KEHC 5286 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS APPLICATION E085 OF 2020
DKN MAGARE, J
APRIL 16, 2024**

BETWEEN

KIMANI & MICHUKI ADVOCATES APPLICANT

AND

GENERAL MILLS EAST AFRICA LTD 1ST RESPONDENT

BEN GITONGA 2ND RESPONDENT

RULING

1. This is a Ruling over a Miscellaneous Application dated 17/11/2023 made under Section 51(2) of the [Advocates Act](#).
2. The Applicant the Application sought entry of Judgement be entered for the Applicant against the Respondent in the sum of Kshs. 33,380,847.26 being the sum taxed and certified by the Taxing master on 30/3/2023 as due to the Applicant with interest thereon.
3. The Application arose from the Advocate/Client Bill of Costs dated 7/12/2020 as between advocates and clients.
4. Be it as may the Court has already taxed the costs at a specific figure, that is, Kshs. Kshs. 33,380,847.26.
5. The Application is expressed to be brought under Section 51 (1) of the [Advocates Act](#) and Rule 51(2) of the [Civil Procedure Rules](#). The said Section 51(2) of the [Advocates Act](#) provides thus:

Pursuant to the provisions of Section 2 of the [Advocates Act](#) -

“‘Client’ includes any person who, as a principal or on behalf of another, or as a trustee or personal representative, or in any other capacity, has power, express or implied, to retain or employ an advocate and any person who is or may be liable to pay an advocate any costs.”



6. As a fact after filing of the Notice of Motion dated 17/05/2023, there does not appear to be active participation of the Respondent.
7. In the case of *Musyoka & Wambua Advocates v Rustam Hira Advocate* [2006] eKLR it was held: -

“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 discretion to enter judgment on 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 law, in addition to filing of suit.....”
8. The Applicant has done his part, serving the bill of costs, and other processes.
9. The certificate of costs is duly signed by the taxing master. More than 30 days have lapsed since the taxation.
10. I find that the said Application dated 17/5/2023 is merited. I allow the same.

Determination

- a. I therefore make the following orders: -
 - a. Judgment be and is hereby entered for the Applicant against the Respondent in terms of the Certificate of Costs dated 27/4/2023 for a sum of Kshs. 33,380,847.26
 - b. Interest thereon is awarded effective 27/5/2023, being 30 days from the date of certification.
 - c. The file is closed

DATED, SIGNED AND DELIVERED VIRTUALLY AT MOMBASA ON THIS 16TH DAY OF APRIL, 2024

KIZITO MAGARE

JUDGE

In the presence of:-

Mr. Gakinya for the Applicant

No appearance for the Respondent

Court Assistant - Brian

