



**Geoffrey Yogo & Erick Ojuro t/a Otieno, Yogo, Ojuro & Co. Advocates v Dominion Farms Limited
(Miscellaneous Civil Application E024 of 2022) [2024] KEHC 4790 (KLR) (9 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 4790 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION E024 OF 2022**

RE ABURILI, J

MAY 9, 2024

BETWEEN

**GEOFFREY YOGO & ERICK OJURO T/A OTIENO, YOGO, OJURO & CO.
ADVOCATES APPLICANT**

AND

DOMINION FARMS LIMITED RESPONDENT

*(Arising from the professional legal services rendered by the Applicant/Advocate
to the Respondent/client in original matter Kisumu CMCC No. 393 of 2019)*

RULING

1. This matter is similar to HC Misc. Application No. E027, E028 and EO25 of 2022. They are all between the same applicants and Respondents, being advocate, client relationship.
2. The Applicant is the firm of Otieno, Yogo, Ojuro & Co. Advocates under whose name Geoffrey Yogo and Eric Ojuro practice. The Respondent is Dominion Farms Limited.
3. Vide application dated 24th March 2023, the Advocate/Applicant seeks orders that this court be pleased to convert the certificate of costs issued by this court on 27th January 2023 into a decree and judgment be entered for the Advocate/Applicant accordingly for Kshs.301,772 together with costs and interest at 14% p.a from 9th February 2022 till payment in full. The Advocate also prays for costs of the application.
4. The application is predicated on the ground that the applicant (sic) has never and cannot deny retainer. It is supported by the affidavit sworn by Eric Otieno Ojuro Advocate who deposes that the Deputy Registrar taxed costs and a certificate of costs issued.
5. That his firm was instructed and retained to act for the Respondent in the matter in which taxation was done hence the same should be converted into a decree.



6. The application was not opposed.
7. The Applicant annexed certificate of costs dated 9th December 2022 issued in this matter in respect of legal services rendered in Kisumu CMCC No. 393 of 2019 between Dominion Farms vs Romado Enterprises. The costs were assessed at Kshs.301,772 for the Advocate against the Client/Respondent herein.
8. The Advocate/Client bill of costs dated 17th December 2021, was served upon the client via email vide Taxation Notice dated 13th June 2022.
9. On 13th June 2022 at chris.abir@domfarms.com as shown by copy of email annexed to the affidavit of service.
10. The Bill was assessed at Kshs.301,772.00 and taxed on 7th December 2022 by Hon. Beryl Omollo, Deputy Registrar as drawn on account that it was drawn to scale. The scale applied is not mentioned anywhere.
11. Under Section 51(2) of the Advocates Act, unless there is a reference or challenge as to retainer, a certificate of costs is final and what remains is for this court to enter judgment, on application, in terms of the certificate of costs.
12. However, that does not mean that this court is a rubber stamp. It must examine and be satisfied that the figures are accurate and that the taxation was well founded.
13. In this case, the Bill of Costs dated 17th December 2021 is brief, with 5 items. Item 1 is instructions fees of Kshs.120,000. Item 2 is services of summons of Kshs.3,000 making it a total of Kshs.123,000 yet the total in the bill is Kshs.128,000.
14. Thus, the figures ought to be Kshs.120,000 increased by ½ which is Kshs.60,000 and not Kshs.64,000 making it a total of Kshs.184,000, add service of summons Kshs.3,000 = Kshs.187,000 plus 16% VAT.
15. The advocate prayed for and was awarded Kshs.63,727 being fees for filing of plaint. There is no evidence that he had instructions to use his own money for filing suit. That figure ought to be claimed in Party and Party bill of costs except where there is evidence of the advocate paying from his own pocket on behalf of his client.
16. From the Ruling on taxation, I have not seen any evidence of the documents photocopied or printed or correspondence to attract Kshs.15,000.
17. On the whole, I find the taxation to have been done mechanically without examining the bill of costs and the original file from which the bill was derived.
18. I decline to enter judgment in terms of the certificate of costs. Instead, I on my own motion set aside the erroneous certificate of costs dated 9th December, 2022 and return this file to the Deputy Registrar of this court to retax the Bill dated 17th December 2021 upon satisfying herself that the Respondent is duly served and an affidavit of service filed into court. She will also adhere to the principles for taxation of bills of costs.
19. I make no orders as to costs.
20. Mention before the Deputy Registrar on 20th June, 2024.
21. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 9TH DAY OF MAY, 2024



R. E. ABURILI
JUDGE

