



Kinyua & Maingi Advocates v Trident Insurance Company Ltd (Miscellaneous Civil Application E090 of 2023) [2024] KEHC 6102 (KLR) (16 May 2024) (Ruling)

Neutral citation: [2024] KEHC 6102 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS CIVIL APPLICATION E090 OF 2023
DO CHEPKWONY, J
MAY 16, 2024**

BETWEEN

KINYUA & MAINGI ADVOCATES APPLICANT

AND

TRIDENT INSURANCE COMPANY LTD RESPONDENT

RULING

1. *Vide* a Ruling dated 31st January, 2024, the Deputy Registrar taxed the Bill of Costs dated 13th June, 2023, which was unopposed, at Kshs 190,265.80/= . A Certificate of Taxation dated 12th March, 2024 was issued in the sum of Kshs 190,265.80/=.
2. The Applicant/Advocate then filed a Notice of Motion application dated 4th April, 2024 wherein he seeks for orders:-
 - a. The Judgment be entered in favour of the Applicant against the Respondent for the sum of Kenya Shillings One Hundred and Ninety Thousand, Two Hundred and Sixty-Five and eighty Cents only Kshs.190,265.80) being the certified costs due to the Applicant as against the Respondent.
 - b. That the Respondent does pay to the Applicant the costs of this application together with interest on the taxed sum.

The gist of the application is that the Respondent has neglected, refused and or failed to settle the fixed costs and yet there is no dispute that it retained the Applicant firm as their advocate in respect of the Thika CMCC No.E349 of 2022, Douglas Kahara Njuguna vs Harrison Kamau Maina.

3. The Respondent was served with the said application on 17th April, 2021 and 29th April, 2024 respectively but they have neither filed a response nor attend court to respond to the said application. The application then proceeded for hearing unopposed.



4. The application is brought under Section 51(2) of the Advocates Act which provides as follows:-

[51]. General provisions as to taxation

(1)

(2) 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

5. It is trite law that when the Taxing Officer has already taxed the costs and issued a Certificate of Taxation and no reference is filed seeking to set the same aside or even vary it, then this Court's duty shall be to enter Judgment in terms of the said Certificate.

6. In determining this application, the court is guided by the decision in the case of Lubulellah & Associates Advocates -vs- NK Brothers Limited [2014] eKLR where the Court stated 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 the 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 25th November, 2012.”

7. The upshot is that judgment is hereby entered in favour of the Applicant as against the Respondent in the sum of Kshs. 190,265.80 as per the Certificate of Taxation dated 12th March, 2024 together with interest at 14% per annum from 12th March, 2024 until payment in full.

It is so ordered.

RULING DATED AND SIGNED AT KIAMBU THIS 16TH DAY OF MAY 2024.

D. O. CHEPKWONY

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JUDGE

I certify that this is the true copy of the original

Signed

DEPUTY REGISTRAR

In the presence of:

Mr. Kinyua for the Applicant

Court Assistant - Martin

