



**Malombo t/a OM Robinson & Co Advocates v Trident Insurance Company Limited
(Miscellaneous Application E005 of 2023) [2024] KEHC 5743 (KLR) (9 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5743 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS APPLICATION E005 OF 2023**

DKN MAGARE, J

MAY 9, 2024

BETWEEN

**ROBINSON ONYANGO MALOMBO T/A OM ROBINSON & CO
ADVOCATES APPLICANT**

AND

TRIDENT INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. This is a Ruling over a Miscellaneous Application dated 1/11/2023.
2. The Applicant the Application substantially seeking that Judgement be entered for the Applicant against the Respondent in the sum of Kshs. 129,195/= being the sum taxed and certified by the Deputy Registrar on 6th September 2023 as due to the Applicant with interest thereon.
3. The Application arose from the Advocate/Client Bill of Costs dated 24th May 2023.
4. Be it as may the Court has already assessed costs at a specific figure, that is, Kshs. 129,195/=.
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 1/11/2023, 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. Consequently the Application dated 1/11/2023 is allowed.

Determination

10. 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 6/9/2023 for Kshs. 129,195/=.
- b. Interest thereon is awarded effective 29/10/2023, 30 days from the date of issue of the certificate of costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT MOMBASA ON THIS 9TH DAY OF MAY, 2024.

KIZITO MAGARE

JUDGE

In the presence of:-

Mr. Mohamed holding brief for Malombo

Court Assistant- Brian

M.D. KIZITO, J.

