



REPUBLIC OF KENYA



**Marienga & Company Advocates v Muthoni (Miscellaneous Civil Application  
E001 of 2023) [2024] KEHC 7141 (KLR) (11 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7141 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
MISCELLANEOUS CIVIL APPLICATION E001 OF 2023  
DKN MAGARE, J  
JUNE 11, 2024**

**BETWEEN**

**MARIENGA & COMPANY ADVOCATES ..... APPLICANT**

**AND**

**MAUREEN MUTHONI ..... RESPONDENT**

**RULING**

1. This is a Ruling over a Miscellaneous Application dated 18/12/2023.
2. The Applicant is substantially seeking that Judgement be entered for the Applicant against the Respondent in the sum of Kshs. 118,668/= being the sum taxed and certified by the Deputy Registrar on 27<sup>th</sup> November 2023 as due to the Applicant with interest thereon.
3. The Application arose from the Advocate/Client Bill of Costs dated 7<sup>th</sup> March 2023.
4. Be it as may the Court has already assessed costs at a specific figure, that is, Kshs. 118,668/=.
5. The Application is expressed to be brought under Section 51 (1) of the Advocates Act. 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 18/12/2023, there does not appear to be active participation of the Respondent. The Application is unopposed.



7. In the case of *Musyoka & Wambua Advocates v RustamHira 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. I find and hold that the Application is merited.

#### **Determination**

10. I therefore make the following orders: -

- a. Judgment be and is hereby entered for the Applicant against the Respondent for Kshs. 118,668/= in terms of the Certificate of Costs dated 27<sup>th</sup> November 2023.
- b. Interest thereon is awarded at court rates effective 27<sup>th</sup> December 2023.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NYERI ON THIS 11<sup>TH</sup> DAY OF JUNE, 2024.**

**KIZITO MAGARE**

**JUDGE**

In the presence of:-

No appearance for parties.

Court clerk – Jedidah

