



Munyithya Mutugi Umara & Muzna Co. Advocates v Munyao & 2 others (Miscellaneous Application 381 of 2019) [2024] KEHC 7000 (KLR) (11 June 2024) (Ruling)

Neutral citation: [2024] KEHC 7000 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS APPLICATION 381 OF 2019
DKN MAGARE, J
JUNE 11, 2024**

BETWEEN

MUNYITHYA MUTUGI UMARA & MUZNA CO. ADVOCATES APPLICANT

AND

ELIZABETH MWENDE MUNYAO 1ST RESPONDENT

DANIEL MUNYAO MUANGE 2ND RESPONDENT

SINGLE PALM RESORT LIMITED 3RD RESPONDENT

RULING

1. This is a Ruling over a Miscellaneous Application dated 11/4/2023 where the Applicant sought that Judgement be entered for the Applicant against the Respondent in the sum of Ksh. 1,960,480/= being the sum taxed and certified by the Deputy Registrar on 30th March 2022 as due to the Applicant with interest thereon.
2. The Application arose from the Advocate/Client Bill of Costs dated 25th September 2019 which was taxed Ksh. 1,960,480/=.
3. 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.”
4. As a fact after filing of the Notice of Motion dated 11/4/2023, there does not appear to be active participation of the Respondent. The Application is unopposed.



5. 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...

6. I find and hold that the Application is merited and allow it as prayed.

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 30th March 2022.

b. Interest thereon is awarded at 9% effective 30/4/2022.

Dated, Signed and Delivered virtually at Nyeri on this 11th day of June, 2024.

KIZITO MAGARE

JUDGE

In the presence of:-

No appearance for parties

Court Assistant - Jedidah

