



**Kisilah Daniel Gor and Daniel Ndeke Gatumu p/a Sheth & Wathigo Advocates v JGM  
(Miscellaneous Civil Case E024 of 2021) [2023] KEHC 1430 (KLR) (2 March 2023) (Judgment)**

Neutral citation: [2023] KEHC 1430 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
MISCELLANEOUS CIVIL CASE E024 OF 2021**

**GL NZIOKA, J**

**MARCH 2, 2023**

**BETWEEN**

**KISILAH DANIEL GOR AND DANIEL NDEKE GATUMU P/A SHETH &  
WATHIGO ADVOCATES ..... APPLICANT**

**AND**

**JGM ..... RESPONDENT**

**JUDGMENT**

1. The notice of motion application dated March 14, 2022 refers. The applicant is seeking for orders that the judgment be entered in it's favour as against the Respondent for the sum of Kshs 130,993.00 being the certified costs due to the Applicant against the Respondent and be adopted and recognized as the judgment of this court. Further the interest occurred on costs and disbursements due to the applicant be awarded from the date of filing of the bill of costs on May 25, 2021 till payment in full and the costs of this application be provided for.
2. The application is supported by the grounds on the face of it, to the effect that despite the issuance of the certificate of taxation and a demand for the payment the sums therein, the Respondent has neglected and or refused to pay. That there is no dispute that, the Respondent retained the Applicant in an Advocate-client relationship.
3. The application is further supported by an Affidavit sworn by Kisilah Daniel Gor, an Advocate of the High Court practicing as such in the Applicant's form. He deposes that, the Applicant acted for the Respondent in Naivasha CMCC Divorce Cause No. 12 of 2015, *JGM v JNG*. That on 1/10/2020, Decree *Nisi* was issued. On 11/10/2020, the Applicant served the Respondent with a fee note. On 25/5/2021 the Advocate/Applicant filed Advocate client bill of costs for taxation. On 14/6/2021, the Respondent was served with the Bill of costs.



4. On 27/1/2022, the Bill of costs was taxed at Kshs 130,993 and a certificate issued on 10/2/2022 that the Respondent was notified of the taxed amount, with a discount of Kshs 40,000 but still failed to make the necessary payment. Neither has he appealed against it nor the certificate of taxation set aside. That in the circumstances, it is only fair that, the application be allowed as prayed.
5. The application herein was served upon the Respondent but he did not appear to oppose it or otherwise. I have considered the application herein and I find that, it governed by the provisions of section 51(2) of the *Advocates Act*. The subject provisions empowers the court to enter judgment on a sum certified in the certificate of taxation, so long as the retainer is not disputed.
6. There is no evidence herein that, the retainer is disputed. I have taken note of the Bill of costs dated 25<sup>th</sup> May 2021 taxed on and certified *vide* a certificate of costs dated 10<sup>th</sup> February 2022. I also note that, the application herein is not opposed. In that case I enter judgment in favour of the applicant in the sum certified in the certificate of costs, being Kshs 130,993.00; only. The Applicant shall also have the costs of this application. For clarity prayer (1) and (3) of the Application are allowed accordingly. Those then are the orders of the court.

**DATED, DELIVERED AND SIGNED THIS 2<sup>ND</sup> DAY OF MARCH 2023.**

**GRACE L. NZIOKA**

**JUDGE**

In the presence of:-

Ms Oteyo for the Applicant

Respondent physically present in court

Ms Ogutu-Court Assistant

