



**V Chokaa & Co Advocates v County Government of Mombasa as  
Successor of Municipal of Mombasa (Civil Miscellaneous Application  
243 of 2021) [2023] KEHC 1667 (KLR) (10 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 1667 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CIVIL MISCELLANEOUS APPLICATION 243 OF 2021  
DKN MAGARE, J  
MARCH 10, 2023**

**BETWEEN**

**V CHOKAA & CO ADVOCATES ..... APPLICANT**

**AND**

**COUNTY GOVERNMENT OF MOMBASA AS SUCCESSOR OF MUNICIPAL  
OF MOMBASA ..... RESPONDENT**

**RULING**

1. This matter came before me on March 6, 2023 for hearing of the application dated February 17, 2023.
2. The application seeks for entry of judgment on the certificate of taxation issued on February 27, 2023. The taxation was allowed on November 10, 2022. by the Deputy Registrar of this court. The subject matter for which the case was taxed was Kshs 15,547,769 against the 1<sup>st</sup> defendant and Kshs 1,610,498,274 as against the 2<sup>nd</sup> defendant in Mombasa HCC 159 of 2010.
3. Be it as may the court has already assessed costs at a specific figure, that is, 28,789,235.
4. The application is expressed to be brought under section 51(2) of the *Advocates Act*, rule 7 of the *Advocates Remuneration Order*, order 36(1) of the *Civil Procedure Rules* and section 3(a) of the *Civil Procedure Act*.
5. A notice for the demand of fees was issued on January 30, 2023. The 30 days required under rule 7 expired on March 4, 2023. However, in spite of being served through their advocates BN Otieno & Company Advocates, the respondents and their advocates did not turn up in court.
6. As a fact after filing of the notice dated May 17, 2022, there does not appear to be active participation of the respondent. The respondent's do not appear to care about prudent management of public resources.



7. The applicant has done his part, serving the bill of costs, and other processes.

I am unable to resist the urge to allow the application. The said application dated February 17, 2023 is allowed in the following terms: -

- a. Judgment be entered for the applicant against the respondent for a sum of Kshs 28,789,235/=.
  - b. Each party to bear their costs.
  - c. Interest from the date of judgment hereof.
8. Before I depart I need to address the issue regarding interest. Under rule 7, same is applicable 30 days after demand. In this matter I have gone through the demand. There is no evidence of service of the same upon the client
9. Further, the application for judgment was filed within 30 days, effectively placing this matter outside rule 7 of the *Advocates Remuneration Order*.

Interest is therefore to be applied at court rates from the date of judgment hereof.

#### **Determination**

10. I therefore make the following orders: -

- a. Judgment is entered for the applicant against the respondent in terms of the certificate of costs dated January 27, 2023 for Kshs 28,789,235/=
- b. Each party to bear their own costs
- c. The amount to attract interest from the date of judgment hereof.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 10<sup>TH</sup> DAY OF MARCH, 2023.  
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

**HON. MR. JUSTICE DENNIS KIZITO MAGARE JUDGE OF THE HIGH COURT, MOMBASA**

**In the presence of:**

Dr. Chokaa for the Applicant

No appearance for the Respondent

Andrew Mwambanga/Oliver Musundi – Court Assistants

**M.D. KIZITO, J.**

