



**Conrad Law Advocates LLP v Kiwipay Kenya Limited (Miscellaneous Application E051 of 2022)
[2023] KEHC 18787 (KLR) (Anti-Corruption and Economic Crimes) (22 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18787 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES
MISCELLANEOUS APPLICATION E051 OF 2022**

EN MAINA, J

JUNE 22, 2023

BETWEEN

CONRAD LAW ADVOCATES LLP APPLICANT

AND

KIWIPAY KENYA LIMITED RESPONDENT

RULING

1. The Advocate/Applicant filed a Notice of Motion dated February 28, 2023, supported by an affidavit sworn by Pascal Musyoki Advocate sworn on the same date. The Application is made under Order 23 Rule 1 and 2 of the Civil Procedure Rules 2010, Sections 1A,1B, 3A of the Civil Procedure Act and Section 51 of the Advocates Act and Rule 7 of the Advocates Remuneration Order and seeks the following orders:

- “1) Spent
2. Spent
3. The resultant judgement and decree do attract an interest of 12% per annum from the 19th of January 2023 until payment in full.
4. This Honourable Court be pleased to issue an order for the attachment of the Respondent/Client’s bank accounts numbers 6XXXXXXXXXXXX and 6XXXXXXXXXXXX at Ecobank Kenya Limited to answer and or satisfy the Certificate of Taxation issued on January 19, 2023.
5. That the costs of this application be provided for.



2. The grounds for the Application are that: -

- “ 1) The Applicant/Advocate's Bill of Costs was partially taxed on the 19th of December 2022 and the Applicant/Advocate awarded costs against the Respondent/Client in the sum of Kenya Shillings Six Hundred and Twelve Thousand, Seven Hundred Shillings and Sixty Cents (KES 612.700.60) for the work undertaken in the High Court.
 2. That a Certificate of Taxation was issued on January 19, 2023 and thereafter served on the Client/Respondent.
 3. That the said Certificate of Taxation has not been challenged, varied, set aside and/or altered and remains unsatisfied to date.
 4. That the Respondent/Client has bank accounts held at Ecobank Kenya Limited, being the accounts numbered 6XXXXXXXXXXXX and 6XXXXXXXXXXXX, which have the funds sufficient to wholly satisfy the said Decree.
 5. That it is in the interest of justice that the orders sought herein be granted
3. The Advocate/Applicant relied further on its written submissions and list and bundle of authorities filed on May 29, 2023 which the court has duly considered.
4. The Application was not opposed as the Client/Respondent did not file any responses or submissions. However, at the hearing of the Application on April 24, 2023, Mr Kiprotich, Learned Counsel for the Client/Respondent informed this court that they were not opposed to the application except for prayers 3 and 4 Prayer 2 of the application was therefore allowed by the court and what remains for determination are prayers 3 and 4.
5. The issues remaining for determination therefore are:
1. Whether the Certificate of Taxation adopted as a judgement and decree of the court should attract interest at 12% pa effective from January 19, 2023
 2. Whether this court should issue a garnishee order in respect of the costs.

Issue 1: Whether the Certificate of Taxation adopted as judgement and decree of the court should attract interest at 12% pa effective from 19th January 2023

6. Rule 7 of the Advocates Remuneration Order states plainly that interest is chargeable at fourteen (14%) per cent per annum from the expiration of one (1) month from the delivery of the bill to the client.
7. Interest may be charged
An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.



7. I have perused the ruling of the taxing officer delivered on 19th December 2022 and the Certificate of Taxation issued on the same date. The taxed Bill of Costs was allowed against the Client/Respondent for a sum of Kshs 612,700.60/- only. No orders were made in respect of interest.
8. This court notes from the proceedings before the Taxing Master that the Client/Respondent was represented on November 28, 2022 and December 13, 2022 when the parties appeared before the said Taxing Master. Both parties were also present during the delivery of the Ruling of the Taxing Master on December 19, 2022. Accordingly, the Respondent/Client was fully aware of the Bill of Costs and subsequently, the certified costs became payable on the said December 19, 2022.
9. This court takes cognizance that the Respondent/Client expressly conceded to the Certificate of Taxation to be adopted as an order of this court and did not file any documents in response to the Application. There is no reason to deny the Advocate/Applicant interest on the taxed costs.
10. The rate of interest due to the advocate under Rule 7 ARO is set at 14% per annum chargeable from the expiration of 1 month from delivery by the advocate of the bill to his client and on the condition that the claim for interest must have been raised before the amount of the bill is paid in full. However, in the case the Advocate's prayer is for interest at 12% per annum.
11. I have considered the Bill of Costs filed in court and noted there was no claim for interest, hence the taxed costs did not include interest. No evidence was placed before the Court to demonstrate that the Advocate/Applicant made a claim for interest before the filing of the bill of costs or at all. However, the Client/Respondent has not opposed the claim for interest.
12. Accordingly, I would allow interest on the taxed costs at the rate of 12% from the date of the Certificate of Taxation, that is December 19, 2022.

Issue 2: Whether the Advocate/Advocate should issue a garnishee order in respect of the costs.

13. The Advocate/Applicant seeks the garnishment of the Client/Respondent bank accounts numbers 6XXXXXXXXXXXX and 6XXXXXXXXXXXX at Ecobank Kenya Limited to answer and or satisfy the Certificate of Taxation issued on January 19, 2023. This court having granted prayer 2 of the Application thereby adopting the Certificate of Costs as a judgment of the court, the Advocate/Applicant it is left to the Advocate/Applicant to enforce the orders granted to him through the means provided in law and this court cannot at this stage issue a garnishee order as sought.
14. The upshot is that the Advocate/Applicant partially succeeds. The Advocate/Applicant is awarded interest on the taxed costs of Kshs 612,700.60 at 12% per annum from December 19, 2022 together with costs of the Application as prayed. He is also awarded the costs of this application.

SIGNED, DATED AND DELIVERED VIRTUALLY ON THIS 22ND DAY OF JUNE 2023.

E N MAINA

JUDGE

