



**Wangui Kuria & Co. Advocates v Kasarini Estate Co-operative Union Society Workers & 9 others  
(Miscellaneous Civil Application 39 of 2020) [2023] KEHC 18734 (KLR) (16 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18734 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
MISCELLANEOUS CIVIL APPLICATION 39 OF 2020**

**A MSHILA, J  
JUNE 16, 2023**

**BETWEEN**

**WANGUI KURIA & CO. ADVOCATES ..... APPLICANT**

**AND**

**KASARINI ESTATE CO-OPERATIVE UNION SOCIETY WORKERS .... 1<sup>ST</sup>  
RESPONDENT**

**PAULINE NJERI NG'ANG'A ..... 2<sup>ND</sup> RESPONDENT**

**MARY NJAMBI NJENGA ..... 3<sup>RD</sup> RESPONDENT**

**MARGARET WARINGA NDEGWA ..... 4<sup>TH</sup> RESPONDENT**

**LAWRENCE MBUURI NG'ANG'A ..... 5<sup>TH</sup> RESPONDENT**

**GATHONI NGUGI WAWERU ..... 6<sup>TH</sup> RESPONDENT**

**JECINTA WAHU GATHOGO ..... 7<sup>TH</sup> RESPONDENT**

**NDUNGU KARANJA ..... 8<sup>TH</sup> RESPONDENT**

**NDEGWA KIBUI ..... 9<sup>TH</sup> RESPONDENT**

**SIMON KIBUI NDEGWA ..... 10<sup>TH</sup> RESPONDENT**

**RULING**

**BACKGROUND**

1. By a Notice of Motion dated May 23, 2022 and brought under Order 51 Rule 1 of the [Civil Procedure Rules](#), 2010 and all other enabling provisions of the law, the applicant sought for an order that the honourable court be pleased to issue a decree in favour of the applicant for Kshs. 2,989,214/= as issued on June 2, 2021.



2. The application is premised on the grounds that a ruling on the Bill of Costs lodged by the applicant on February 14, 2020 was issued on November 25, 2021 for payment of Kshs. 2,989,214/= by the respondents and a Certificate of Taxation was issued on April 8, 2022.
3. Ruth Wangui Kuriaswore her affidavit in support of the application where she reiterates the grounds of the application in that to enable her execute the orders of the court, it is necessary for the court to issue a Decree in the matter herein.

### **Issues for Determination**

4. Having considered the application and the supporting affidavit and the only issue framed for determination is whether the application is merited for the court to enter judgment in the sum of Kshs. 2,989,214/=.

### **Analysis**

5. Section 51(2) of the *Advocates Act* provides:-

“the certificate of the taxing officer by whom any bill has been taxed shall unless it is set aside or altered by the court, be final as to the amount of the costs recovered thereby; and the court may make such orders in relation thereto as it thinks fit, including where the retainer is not disputed an order that judgment be entered for the sum of certified to be due with costs.”

6. The wordings of the above section empower the court to enter judgment on the taxed amount if the same is uncontested.
7. In determining whether the court should adopt the amount on the certificate of costs as the judgment of the court it should be satisfied that the certificate of taxation has not been set aside. This court relies on the case of: *Lubulellah & Associates Advocates vs N. K. Brothers Limited* (2014) eKLR where the court observed that:-

“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for the recovery of costs. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the applicant against the Respondent herein for the taxed sum indicated in the Certificate of Taxation that was issued on November 25, 2012.”

### **Findings & determination**

8. In light of the foregoing this court makes the following findings and determination;
  - i. This court finds the application to be meritorious;
  - ii. The application dated May 23, 2022 be and is hereby allowed.
  - iii. Certificate of Taxation dated 8/04/2022 is hereby adopted as an order of the court.
  - iv. Judgment be and is hereby entered in favour of the Advocate in the sum of Kshs. 2,989,214/= as per the Certificate of Taxation dated April 8, 2022.
  - v. No order as to costs or interest.



Orders Accordingly.

**DATED SIGNED AND DELIVERED ELECTRONICALLY AT KIAMBU THIS 16<sup>TH</sup> DAY OF JUNE, 2023.**

**HON. A. MSHILA**

**JUDGE**

**In the presence of:**

Court Assistant - Mourice

Tabitha Mwangi holding brief for Wambui Kuria for Appellant

No appearance for the Respondent

