



Kemboy Law Advocates v Narok County Government (Commercial Miscellaneous Application E602 of 2024) [2024] KEHC 14464 (KLR) (Commercial and Tax) (21 November 2024) (Ruling)

Neutral citation: [2024] KEHC 14464 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL MISCELLANEOUS APPLICATION E602 OF 2024**

H NAMISI, J

NOVEMBER 21, 2024

BETWEEN

KEMBOY LAW ADVOCATES APPLICANT

AND

NAROK COUNTY GOVERNMENT RESPONDENT

RULING

1. By Notice of Motion dated 8th December 2023, the Applicant seeks the following orders:
 - i. That the Certificate of Costs dated 5 December 2023 arising out of the taxation be converted into a judgment of the Court and Decree emanating therefore be issued accordingly;
 - ii. That interest on the taxed costs be awarded at 14% per annum until payment in full;
 - iii. That the costs be in the cause
2. The Application is supported by the Affidavit sworn by the Applicant and premised on the following grounds:
 - i. On instructions of the Client/Respondent, the Advocate/ Applicant acted in Nairobi Civil Appeal No. 142 of 2015, Governors Balloon Safaris Ltd -vs- Skyship Company Ltd and County Council of Transmara;
 - ii. That the Advocate – Client Bill of Costs dated 4 July 2023 in respect of the services rendered was on 28th November 2023 taxed as between Advocate and Client and allowed as against the Clients/Respondents in the sum of Kshs 14,205,979/=;
 - iii. That a Certificate of Taxation for the said amount was issued on 5 December 2023;



- iv. That the said Certificate of Taxation has not been set aside or altered;
 - v. That it is apparent that there has no dispute as to retainer
3. No parties filed submissions in respect of the Application.
 4. The Application is brought under Section 51(2) of the *Advocates Act*, cap 26 and Rule 7 of the Advocates Remuneration Order, 2009. Section 51 (2) provides as follows:

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.
 5. In the case of *Musyoka & Wambua Advocates v Rustam Hira Advocate* (2006) eKLR it was held thus:

“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. The Respondent has not participated in these proceedings from commencement, despite being served on numerous occasions.
 7. Having read the Application, Supporting Affidavit as well as the attached documents, I am of the considered view that the same is merited. The Application is allowed and I make the following orders:
 - i. Judgement is hereby entered for the Applicant against the Respondent in terms of the Certificate of Costs dated 5 December 2023 for Kshs 14,205,979/=.
 - ii. Interest thereon is awarded at the rate of 14% per annum from 5 December 2023 until payment in full.
 - iii. The Applicant is awarded costs assessed at Kshs 30,000/=.

DATED AND DELIVERED AT NAIROBI THIS 21 DAY OF NOVEMBER 2024.

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Mr. Kerefor the Applicant

N/A.....for the Respondent

