



**Kinyua Maingi & Co Advocates v Trident Insurance Co Limited (Miscellaneous Application E033 of 2023) [2024] KEHC 15143 (KLR) (20 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15143 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
MISCELLANEOUS APPLICATION E033 OF 2023  
AK NDUNG’U, J  
NOVEMBER 20, 2024**

**BETWEEN**

**KINYUA MAINGI & CO ADVOCATES ..... APPLICANT**

**AND**

**TRIDENT INSURANCE CO LIMITED ..... RESPONDENT**

**RULING**

1. Vide a notice of motion dated 28<sup>th</sup> April, 2024 the Applicant sought for orders that;
  - i. The judgment be entered in favour of the Applicant against the Respondent for the sum of Kshs.141,833.95/- being the certified costs due to the Applicant as against the Respondent.
  - ii. That the Respondent does pay the Applicant the costs of this application together with interest on the taxed sum.
2. The Application is based on grounds that;
  - a. The advocate – client costs due to the Applicant herein have been taxed Kshs.141,833.95/- in favour of the Applicant as against the Respondent and a certificate of taxation issued to that effect.
  - b. The Respondent has neglected, refused and/or failed to settle the taxed costs.
  - c. There is dispute that the Respondent retained the Applicant herein as their advocate in respect of which Advocate – Client costs were taxed herein.
  - d. It is only fair and just in the circumstances that judgment be entered for the amount of Kshs.141,833.95/- being the sum certified to be due to the Applicant herein as against the Respondent.



3. The application is supported by a supporting affidavit of the Applicant sworn on 28<sup>th</sup> August, 2024 wherein it is stated that the Respondent instructed the Applicant's firm to act for the Defendant in Nyahururu CMCC No. 231 of 2022 *Duncan Mureithi Gitonga v Trident Insurance Company Limited*.
4. Thereafter, the Respondent failed to pay legal fees, thereby necessitating the filing of a bill of costs herein for taxation and the same was taxed for sum of Kshs.141,833.95/- and a certificate of taxation issued to that effect.
5. That the Respondent has refused, failed and/or neglected to settled the taxed costs despite being served with the ruling and the certificate of taxation and the same has not been appealed against, set aside or altered by the Respondent.
6. In the circumstances, it is only fair and just that judgment be entered as prayed for the sum of Kshs.141,833.95/- being taxed costs against the Respondent together with interests thereon.
7. 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 covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs” (emphasis added)

8. The certificate of the taxing master in this matter is final. No dispute on retainer is raised and am quick to note that the application was not defended.
9. In the premises, the application before court has merit and is allowed in terms that;
  - a. Judgment be and is hereby entered in favour of the Applicant against the Respondent for the sum of Kshs.141,833 /- being the certified costs due to the Applicant as against the Respondent plus interest.
  - b. That each party to bear its costs of this application.

**DATED SIGNED AND DELIVERED VIRTUALLY THIS 20TH DAY OF NOVEMBER, 2024.**

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**A.K. NDUNG’U**  
**JUDGE**

