



**Ransley McVicker & Shaw Advocates v Gatta & another (Miscellaneous Application E661 of 2022) [2024] KEHC 15836 (KLR) (At Nairobi) (13 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15836 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
AT NAIROBI  
MISCELLANEOUS APPLICATION E661 OF 2022  
RC RUTTO, J  
DECEMBER 13, 2024**

**BETWEEN**

**RANSLEY MCVICKER & SHAW ADVOCATES ..... APPLICANT**

**AND**

**CLAUDIA GATTA ..... 1<sup>ST</sup> RESPONDENT**

**EVANS MBUGUA ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. By application dated 19<sup>th</sup> December 2023, the applicant has invoked section 3A and 26 (1) of the *Civil Procedure Act*, section 51 (2) of the *Advocates Act*, and Rule 7 of the Advocates Remuneration Order seeking the following reliefs:
  - a. That the certificate of costs in respect of the taxation order made on 23<sup>rd</sup> November 2023, amounting to Kshs. Eight hundred and seventy-one thousand, nine hundred and fifteen (Kshs. 871, 915.00), be adopted as the judgment and decree of this court;
  - b. That interest at the rate of fourteen percent (14%) per annum be awarded on the said sum from the date of filing of the bill for taxation on 16<sup>th</sup> September 2022 until payment in full;
  - c. Any other orders as this Honorable Court may deem fit to make in the circumstances;
  - d. Costs of this application be provided for.



2. The application is on the grounds set out on the face of the Notice of Motion Application and supported by a supporting affidavit of V. Wangui Shaw, the surviving partner of the applicant. The gist of the application is that the applicant filed its bill of costs dated 16<sup>th</sup> September 2022 against the respondents. The same was assessed on 30<sup>th</sup> October 2023 in the sum of Kshs. 871,915.00. As at the time of filing the application, the respondents were yet to settle the said amount.
3. The applicant urged this court to allow the application on account of the following reasons: that this court is vested with jurisdiction to convert a taxing certificate into a decree by dint of section 51 (2) of the Advocates Remuneration Order; that Rule 7 of the said Order gives provision for interest on the said costs at 14% per annum until payment in full; and finally, that the purpose of awarding interest is under section 26 (1) and (2) of the Civil Procedure Act, which is to compensate a claimant for being denied its money.
4. The application favored no response from the respondents. When the application was heard on 17<sup>th</sup> October 2024, the applicant urged this court to allow the application as prayed. The respondents were served with the hearing date as per the Affidavit of Service sworn on 24<sup>th</sup> September 2024 by Eric Angweye Karani.
5. I have considered the application, the affidavit, the annexures thereto and the law. 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.”
6. It is trite law that section 51 (2) of the Advocates Act applies to the mode of recovery of taxed costs. In this case, the applicant’s bill of costs was taxed on 30<sup>th</sup> October 2023. A certificate of costs for taxation was issued on 19<sup>th</sup> November 2023. Those costs are not the subject of challenge. The sum is final. Accordingly, I am inclined to enter judgment in the sum certified totaling Kshs. 871, 915.00. The applicant is also entitled to costs and interest at 14% from the date of filing the application.

It is so ordered.

**RHODA RUTTO**

**JUDGE**

**DELIVERED, DATED AND SIGNED THIS 13<sup>TH</sup> DAY OF DECEMBER 2024**

For Appellant:

For Respondent:

Court Assistant:

