



Muchangi Nduati & Co Advocates v Ndege (Environment and Land Miscellaneous Application E074 of 2024) [2025] KEELC 4935 (KLR) (25 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4935 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E074 OF 2024**

TW MURIGI, J

JUNE 25, 2025

BETWEEN

MUCHANGI NDUATI & CO ADVOCATES APPLICANT

AND

JENNIFFER WAITHIRA NDEGE RESPONDENT

RULING

1. Before me for determination is the Notice of Motion application dated 24th September 2024 brought under Section 51(2) of the *Advocates Act* Cap 16 Laws of Kenya and Rule 7 of the Advocates Remuneration Order in which the Applicant seeks the following orders:-
 - a. Judgment be entered for the Applicant/Advocate as against the Respondent in the sum of ksh. 248,898.40/= being the taxed costs in this matter.
 - b. The Respondent do pay to the Applicant the said sum plus interest at 14% per annum from 10th July 2024 till payment in full.
 - c. The costs of this application be to the Applicant.
2. The application is premised on grounds appearing on its face together with the supporting affidavit of Muchangi Nduati Ngingo, Advocate sworn on even date.

The Applicant's Case

3. The deponent averred that the Respondent retained its firm to conduct his case namely No. CMELC 1416 of 2018 formerly ELC. No. 1 15 of 2017 which instructions were carried out until the firm was debriefed by the Respondent.
4. That subsequently, the Applicant served its bill of costs upon the Respondent on 10th July 2024 with a request that she pays but she failed to honour the request.



5. That the matter went for taxation and subsequently, the bill of costs was taxed on 21st August 2024 at Kshs. 248,899.40/= all inclusive. He averred the Respondent was served with the certificate of taxation but she refused to honour the same.
6. Though duly served, the Respondent did not file a response to the application.

Analysis And Determination

7. Having considered the application and the affidavit in support thereof, the only issue for determination is whether judgment should be entered for the Advocate/Applicant as per the Certificate of Taxation dated 13th September 2024.
8. Section 51(2) of the *Advocates Act* provides as follows:

“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.”
9. In the case of *Lubulellah & Associates Advocates v N.K. Brothers Limited* [2014] eKLR where the court held 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.”
10. In the matter at hand, the Respondent did not oppose the application. The Applicant has demonstrated that an Advocate-Client relationship existed between it and the Respondent. The Advocates-client bill of costs dated 17th April 2024 was taxed at Kshs. 248,898.40/=. A Certificate of taxation was issued on 13th September 2024 and as it stands now, the same has not been set aside or varied. I find that in terms of Section 51 (2) of the *Advocates Act* there is no reason to deny the Applicant the judgement sought.
11. On the issue of interest, I have considered the provisions of Rule 7 of the Advocates Remuneration Order which provides: -

“An Advocate may charge interest at 14% 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, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full”
12. In the case of *Kerongo & Company Advocates vs Africa Assurance Merchant Co. Ltd* (2019) eKLR the court held that: -

“An Advocate who does not provide proof that he had raised the issue of interest before the amount in the Bill of Costs has been paid or tendered in full will not be paid the interest chargeable under Rule 7 of the Advocates Remuneration.



13. The Advocates have not demonstrated that they had raised the issue of interest and as such they cannot be awarded interest at 14% per annum.
14. In the end, I find that the application dated 24th September 2024 is merited and the same is hereby allowed in the following terms:-
 - a) Judgement be and is hereby entered for the Applicant against the Respondent in the sum Kshs. 248,898.40/= in terms of the Certificate of Taxation dated 13th September 2024.
 - b) The Applicant is awarded costs of the application.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 25TH DAY OF JUNE 2025.

HON. T. MURIGI

JUDGE

IN THE PRESENCE OF: -

Court assistant – Ahmed

Nduati for the Applicant

