



Titus Makhanu & Associates Advocates v Hall Equatorial Limited (Miscellaneous Application E281 of 2023) [2025] KEELRC 2901 (KLR) (24 October 2025) (Ruling)

Neutral citation: [2025] KEELRC 2901 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS APPLICATION E281 OF 2023**

**AK NZEI, J
OCTOBER 24, 2025**

BETWEEN
TITUS MAKHANU & ASSOCIATES ADVOCATES ADVOCATE
AND
HALL EQUATORIAL LIMITED CLIENT

RULING

1. Before me for determination is the Advocate/Applicant's Notice of Motion dated 28th January, 2025, expressed to be brought under Sections 1A, 1B and 3A of the Civil Procedure Act, Section 51(2) of the Advocates Act and Order 51 Rule 1 of the Civil Procedure Rules. The Advocate/Applicant seeks the following Orders:-
 - a. That the Court be pleased to enter Judgment in favour of the Applicant against the Respondent herein for the sum of Kshs.69,959.40 (Kenya shillings sixty nine thousand nine hundred fifty nine cents forty) being the costs taxed by the Taxing Master.
 - b. That the taxed costs do attract interest at 14% per annum from the expiration of one month from the date of service of the Bill of Costs, being 14th July, 2024.
 - c. That costs of the application be provided for.
2. The application sets out on its face the grounds on which it is founded, and is premised on the supporting affidavit of Titus Makhanu Advocate sworn on 28th January, 2025. It is deponed in the said supporting affidavit, inter alia:-
 - a. that the Advocate/Applicant Law Firm filed a bill of costs dated 6th December, 2023, which the Respondent objected to, and which the Taxing Master taxed on 30th October, 2024 at Kshs.69,959.40 and subsequently issued a Certificate of Taxation on 21st November, 2024.



- b. that pursuant to Section 51(1) of the *Advocates Act*, the Taxing Officer's Certificate of Taxation is final as to the amount of the costs covered unless it is set aside or altered by a competent court. That the Certificate of Taxation issued herein has never been set aside and/or varied by any competent court.
 - c. that the Advocate/Applicant is entitled to interest at the rate 14% per annum on the said sum of Kshs.69,959.40 from the expiration of one month from the date the bill of costs was served upon the Respondent, and/or interest at court rates from the date of service of the bill of costs.
3. The application is opposed by the Respondent vide its grounds of opposition dated 8th April, 2025. It is stated in the said grounds of opposition:-
 - a. That the Applicant did not pray for interest in the bill of costs.
 - b. That the Taxing Master did not grant any interest to the Applicant.
 - c. That the Applicant did not challenge the decision of the Taxing Master.
 - d. That the Applicant cannot seek for interest at the stage the proceedings have reached, and/or from this Court.
 - e. That the Applicant is not entitled to any interest on the taxed amounts.
4. The Applicant filed a supplementary affidavit sworn by Titus Makhanu Advocate on 30th May, 2025. It is deponed in the said supplementary affidavit:-
 - a. that the Applicant is entitled to 14% interest as per Rule 7 of the Advocates (Remuneration) Order 2014, from the expiration of one month from the date of service of the bill of costs, being 14th July, 2024 as prayed in the application herein.
 - b. that interest on an Advocate's fees begins to accrue from the expiry of one month from the date of delivery of a bill of costs to the client.
 - c. that Rule 7 of the Advocates (Remuneration) Order 2014 does not specify how and when an Advocate should make claim for interest on his bill of costs. That an Advocate can make claim for interest at any time before the amount is paid, as the applicant has done.
 - d. that the Certificate of Taxation issued by the Court has never been set aside or altered by this Court or any other Court of competent Jurisdiction and no reference has been filed against the Taxing Master's decision; hence the application should be allowed as prayed.
5. It is clear from all the foregoing that the Respondent only objects to an award of interest on the taxed sum, but not to entry of Judgment in terms of the taxed and certified costs. Both parties filed written submissions on the Advocate/Applicant's application pursuant to the Court's directions in that regard.
6. The amount taxed and certified by the Taxing Officer, Kshs.69,959.40, is not disputed. It is also a common ground that the said taxed and certified sum has never been set aside or altered by a competent court, and that there is no pending reference against the Taxing Officer's decision. The retainer as between the Advocate/Applicant and the Client/Respondent is not denied.
7. Issues that fall for determination, in my view, are whether Judgment should be entered as prayed by the Advocate/Applicant and whether the Applicant/Advocate is entitled to interest on the taxed and certified costs and if so, at what rate and from when.



8. On the first issue, Section 51(2) of the [Advocates Act](#), pursuant to which the application is basically brought, provides as follows:-

“The certificate of a 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 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. I will not belabour the point. The prayer for entry of Judgment in terms of the taxed and certified sum of Kshs.69,959.40 must succeed. It was stated as follows in *Lesinko Njoroge & Gathogo Advocates – vs – Invesco Assurance Co. Ltd* [2021] eKLR:-

“(9) The procedure provided in Section 51(2) of the [Advocates Act](#) aides expeditious disposal of cases relating to recovery of advocate-client costs as long as:-

1. the costs have been taxed by and certified under the hand of the taxing master by a certificate of costs: (2) the certificate of costs has not been set aside or stayed or appealed against on a reference filed upon it; and (3) there is no dispute on retainer. In such case, Judgment is ordinarily entered in the sum in the certificate of costs upon application by the advocate. The application may be commenced by way of a Notice of Motion which in law is potent tool for originating a suit.”

10. On the second issue, it is to be appreciated that the amount regarding which this court has been called upon to enter judgement is made up of costs, and indeed taxed costs. Under Section 27(2) of the [Civil Procedure Act](#):-

“(2) The Court or Judge may give interest on costs at any rate not exceeding fourteen percent per annum, and such interest shall be added to the costs and shall be recoverable as such.”

11. The foregoing provision is echoed in Rule 7 of the Advocates (Remuneration) Order which provides as follows:-

“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, provided that such claim for interest is raised before the amount of the bill has been paid or tendered in full.”

12. The Respondent submitted that the Applicant’s present prayer for interest is an afterthought and is actuated by malice as the Applicant neither claimed nor pleaded for interest on the taxed costs at any point of the taxation process; and has only done so at the point of seeking entry of Judgment based on the Certificate of Taxation. That the Applicant’s such action smirks of bad faith, and is an abuse of the Court’s process.



13. The Respondent referred the Court to the Court of Appeal’s decision in the case of Otieno, Ragot & Company Advocates – vs – Kenya Airports Authority [2021] eKLR, where the Court stated as follows:-

“ Additionally, it is distinctive that review of the applicant’s Bill of Costs does not disclose that the applicant included a charge for “. . . interest at 14% per annum on his (her) disbursement and costs . . .” in the Bill of Costs. As sole basis upon which computations of amounts due to an applicant are determined by the taxing officer, the element of interest defined in rule 7 ought to have been included in the Bill of Costs, but it was not. This omission would thereby negate the application of rule 7, and instead render the bill liable to an exercise by the Court of its discretion under Section 26 of the Civil Procedure. Though the Judge was entitled to exercise his discretion to award interest, there was no basis established for awarding the applicant interest at 14% per annum from the date of the bill of costs until payment in full . . .”

14. In the present case, it has not been demonstrated that the Advocate had included, either in the Advocate/Client Bill of Costs placed before the Taxing Officer for taxation or in any Fee Note issued before it, a notice that the Advocate/Applicant would charge interest at 14% per annum (pursuant to Rule 7 of the Advocates (Remuneration) Order) on disbursements and costs. This omission on the part of the Advocate/Applicant disqualifies the Applicant from charging or seeking to charge 14% per annum interest on his disbursements and costs. This Court may, however, exercise its discretion at the point of entering Judgment under Section 51(2) of the *Advocates Act* and award interest pursuant to Section 26(1) of the *Civil Procedure Act*.

15. Section 26(1) of the *Civil Procedure Act* provides as follows:-

“(1) Where and in so far as a decree is for the payment of money, the court may, in the decree, order interest at such rate as the court deems reasonable to be paid on the principal sum adjudged from the date of the suit to the date of the decree in addition to any interest adjudged on such principal sum for any period the institution of suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged from the date of the decree to the date of payment or to such earlier date as the court thinks fit.”

16. Having said that, and having considered rival submissions filed on behalf of both parties herein, the Advocate/Applicant’s Notice of Motion dated 28th January, 2025 is hereby allowed in the following terms:-

- a. Judgment is hereby entered for the Advocate/Applicant against the Client/Respondent in the sum of Kshs.69,959.40, being the sum taxed and certified by the Taxing Officer; plus interest at court rates.
- b. Interest shall be computed from the date of this Ruling, being the date of Judgment, until payment in full.
- c. Costs of the application are awarded to the Advocate/Applicant, to be agreed or taxed.

17. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 24TH DAY OF OCTOBER 2025

AGNES KITIKU NZEI



JUDGE

Order

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

Appearance:

Mr. Mulongo for the Advocate/Applicant

Miss Mwiiri for the Client/Respondent

