



**Kiruki & Kayika Advocates v Monarch Insurance Company Limited (Miscellaneous Application E076 of 2022) [2025] KEHC 15281 (KLR) (27 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15281 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
MISCELLANEOUS APPLICATION E076 OF 2022  
DKN MAGARE, J  
OCTOBER 27, 2025**

**BETWEEN**

**KIRUKI & KAYIKA ADVOCATES ..... APPLICANT**

**AND**

**THE MONARCH INSURANCE COMPANY LIMITED ..... RESPONDENT**

**RULING**

1. This is a ruling over a Miscellaneous Application dated 1.9.2025. The Applicant sought relief that judgment be entered for the Applicant against the Respondent in the sum of Ksh. 175,150/= being the sum taxed and certified by the Deputy Registrar on 20.8.2025 as due to the Applicant with interest thereon.
2. The application arose from the Advocate/Client Bill of Costs dated 16.12.2022. Be it as may, the Court has already assessed costs at a specific figure, that is, Ksh. 175,150/=.
3. The application is expressed to be brought under Section 51(2) of the *Advocates Act*. The said Section 51(2) of the *Advocates Act* provides thus:

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.”

4. As a matter of fact, following the filing of the Notice of Motion dated 31st July 2025, there appears to have been no active participation by the Respondent in the proceedings. In the case of Kalonzo Musyoka & Paul M. Wambua (Practicing As Musyoka & Wambua, Advocates) v Rustam Hira (Practicing as Rustam Hira, Advocate) [2006] KEHC 3078 (KLR), the court, H.P.G. Waweru,



emphasized that where a party, though duly served, fails to participate in the proceedings, the Court is entitled to proceed and determine the matter on the basis of the material placed before it.

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 the discretion to enter judgment upon 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 the law, in addition to the filing of suit, where such suit would be unnecessary because, one, the certificate of taxation has not been set aside or altered and, two, there is no dispute as to retainer. Unless there is any other matter as would require ventilation in a trial, what would be the necessity of filing suit? In my view the court would be entitled to enter judgment under section 51(2) even where there is no suit filed.

5. Upon consideration of the material before me, I am satisfied that the Applicant has duly discharged his obligation by serving the Bill of Costs and all other requisite processes. In the circumstances, I find no reason to disallow the application, which I accordingly allow. Each party shall bear their own costs of this application.

#### **Determination**

6. I therefore make the following orders: -
  - a. Judgment be and is hereby entered for the Applicant against the Respondent in terms of the Certificate of Costs dated 20.8.2025 for Ksh. 175,150/=.
  - b. Interest thereon is awarded at 9% effective 20.09.2025, being 30 days from the date of the certificate of costs, until full payment.
  - c. Each party to bears its own costs for this application.
  - d. 30 days stay of execution.
  - e. The Respondent be served with the order herein.

**DELIVERED, DATED AND SIGNED AT NYERI ON THIS 27<sup>TH</sup> DAY OF OCTOBER, 2025.  
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

**KIZITO MAGARE**

**JUDGE**

In the presence of: -

Mr. Kimani for the Applicant

No appearance for the Respondent

Court Assistant – Michael

