



REPUBLIC OF KENYA



**Paul t/a Kibet Rop & Company Advocates v Invesco Assurance Co. Ltd (Miscellaneous Application E1109 of 2024) [2025] KEHC 15071 (KLR) (Commercial and Tax) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15071 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
MISCELLANEOUS APPLICATION E1109 OF 2024**

**F GIKONYO, J**

**OCTOBER 23, 2025**

**BETWEEN**

**KIBET ROP PAUL T/A KIBET ROP & COMPANY ADVOCATES .. APPLICANT**

**AND**

**INVESCO ASSURANCE CO. LTD ..... RESPONDENT**

**RULING**

1. The notice of motion dated 5<sup>th</sup> May 2025, expressed to be brought under section 51 (2) of the Advocates, is seeking entry of judgment for Kshs. 11,478,688.00/-, being certified costs together with interest thereon at 14% effective 5<sup>th</sup> May 2025.
2. The application is premised on the grounds that set forth therein, and the supporting affidavit sworn by Kibet Rop Paul, Advocate on 5<sup>th</sup> May 2025.
3. The grounds are: -
  1. The applicant filed its Advocates-Client Bill of Costs for taxation.
  2. The applicant was awarded the sum of Kshs. 11,478,688/- through the taxation ruling dated 5th May 2025.
  3. The ruling has not been appealed, varied or reviewed.
  4. The respondent participated in the taxation of the bill of costs and has all along been aware of the certified costs but has deliberately refused to certified costs due to the applicant.
  5. The respondent is acting oppressively. The filing of the bill of costs was itself a lapse gasp measure by the applicant to take advantage of the law to enforce payment after several pleas and request for payment all of which the respondent contemned.



6. The respondent's liquidity position is unknown to the applicant - it is prudent that no recovery proceedings be initiated at the earliest possible opportunity.
7. Allowing this application will facilitate the recovery process so that orders of the court are not rendered nugatory if the respondent is impecunious.

### **Analysis and Determination**

4. The issue before the court is whether the application is merited.
5. The application is brought under section 51 (2) of the Advocates, which provides that: -

“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 recovered thereby; and the court may make such order in relation thereto as it thinks fit, including where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”
6. The applicant did not exhibit a copy of the certificate of taxation. The court did not sight a certificate of taxation in the Judiciary's Case Tracking System or the physical file.
7. Under section 51 (2) of the Advocates: The certificate of the taxing officer shall: -
  - a. unless it is set aside or altered by the court, be final as to the amount of the costs recovered thereby; and
  - b. be upon which the court may make such order in relation thereto...including...an order that judgment be entered for the sum certified to be due with costs.”
8. A certificate of taxation is therefore of functional foundational in the entry of judgment under section 51 (2) of the Advocates. The certificate of taxation certifies the costs taxed and due, and is the basis upon which the court will enter judgment for costs due.
9. There is not certificate of taxation that has been exhibited in this application for entry of judgment under section 51 (2) of the Advocates.
10. Accordingly, in order to serve substantive justice herein, I order that the applicant does file and serve a certificate of taxation within 21 days of today. The application for entry of judgment shall be considered upon the filing of the certificate of taxation and subject to Section 432 (2) of the *Insolvency Act* which is discussed below.

### **Proceedings during liquidation**

11. The court notes that the applicant raised concerns regarding the respondent's liquidity.
12. New reality. This court, in *In re Invesco Assurance Company Limited (Under Statutory Management) (Insolvency Petition E155 of 2019 & E087 of 2024 (Consolidated)) [2025] KEHC 12659 (KLR) (Commercial and Tax) (31 July 2025) (Ruling)* appointed Ms. Diana Nduku Mumo as provisional liquidator of Invesco Assurance Company Limited pending the hearing and determination of the liquidation petition filed by the Commissioner of Insurance.



13. Section 432 (2) of the *Insolvency Act* provides that: -

“When a liquidation order has been made or a provisional liquidator has been appointed, legal proceedings against the company may be begun or continued only with the approval of the Court and subject to such conditions as the Court considers appropriate.”

14. This is meant to protect the collective interests of the creditors and ensure that the administration of the company’s assets is orderly and equitable.

15. Although the instant application was filed before the appointment of the provisional liquidator, it must comply with section 432 (2) of the *Insolvency Act*.

16. Any application for leave as well as the instant application for entry of judgment must be served upon the provisional liquidator.

17. Therefore, the upshot is that the application dated 5<sup>th</sup> May 2025 remains undetermined. No orders as to costs.

**DATED, SIGNED AND DELIVERED THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 23<sup>RD</sup> DAY OF OCTOBER, 2025**

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**F. GIKONYO M**

**JUDGE**

In the presence of:

Parties absent. Date was taken in the presence of Kibet for Applicant

CA Kinyua

