

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

MISCELLANEOUS CIVIL APPLICATION NO. 55 OF 2016

COOTOW & ASSOCIATES ADVOCATES.....APPLICANT

VERSUS

CHRISTINE WANGARI GACHEGE

(sued as legal Representative of the Estate of

RAHAB WANJIRU EVANS-Deceased).....RESPONDENT

RULING

1. By an Application dated 17th March, 2025 and brought under Section 51(2) of the Advocates Act, the Advocates Remuneration Order 2014, Order 52 of the Civil Procedure Rules, 2010, and Sections 1A, 1B, 3, and 3A of the Civil Procedure Act, the Advocate/ Applicant seeks the following Orders:-

1. That this Court be pleased to convert the Advocate-Client Certificate of Taxation dated 26th November, 2024, into a Court Decree against the Respondent for the sum of Kshs. 68,635.

2. That the costs of the application be provided for.

2. The grounds on the face of the application are that the Applicant Law Firm was instructed by the Respondent to defend her in Nakuru CMCC No. 1862 of 2005, where she was sued by Mellannia Otieno Owino and Joseph Mwaniki Kimani Macharia. However, the Applicant's services were not paid for, leading them to file an Advocate-Client Bill of Costs which was taxed at Kshs. 68,635 on 1st February, 2016 and a Certificate of Taxation for this amount was issued to that effect on 26th November, 2024.

3. The Applicant claims that the Respondent has refused, declined and/ or failed to pay the taxed amount, and therefore, it is in the interest of justice for the Certificate to be converted into a decree for recovery of the costs.

4. The application is supported by the Affidavit sworn on 17th March, 2025 by Eva W. Kahiti, a Partner at Cootow & Associates Advocates.

5. The Respondent was served with the application as evidenced by the two Affidavits of Services sworn on 23rd April, 2025 and 30th June, 2025 by Alfred Soita Paul, a licensed Court Process Server. The Affidavits detailed the service of court documents for Miscellaneous Civil Application No. 55 of 2016. He stated that on 12th April, 2025, he received a Hearing Notice dated 9th April, 2025, from Cootow & Associates Advocates, with instructions to serve it upon two law firms: Anyoka & Associates Advocates and S.M. Omae & Company Advocates, which he did as instructed.
6. However, the Respondent did not respond or attend court.
7. Upon perusal of the application and the Supporting Affidavit together with annexures, the only issue for determination is whether the orders sought should issue.
8. In this matter, Section 51 of the Advocates Act provides that:-

“(1)Every application for an order for the taxation of an advocate’s bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an advocate shall be made in the matter of that advocate (2)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. The Court record shows that indeed the Advocate/Applicant acted for the Respondent in Nakuru CMCC No. 1862 of 2005, where she was sued by Mellannia Otieno Owino and Joseph Mwaniki Kimani Macharia.
10. The Respondent herein was duly represented by a Counsel in regard to Bill of Costs dated 1st February 2016 whereby the Bill was duly taxed at Kshs. 68,635/= on 26th November, 2024.

11. Subsequently, Hon. Christine Menya, the Taxing Master issued a Certificate of Taxation of Costs on the same date.
12. The Record shows that the Respondent did not defend this Application despite being duly served.
13. Further, the Certificate of Taxation has not been set aside or altered by the Court. That Certificate is therefore final and the taxed costs ought to be settled.
14. In the circumstances herein, the application dated 17th March 2025 is allowed in the following terms:-

1. **The Certificate of Taxation dated 26th November 2024 be and is hereby converted into a judgment for the sum of Kshs. 68,635/= and a Decree issued to that effect.**

2. **Costs of the application are awarded to the Advocate/Applicant.**

Dated , signed and delivered at Nakuru this 12th Day of November, 2025.

**PATRICIA GICHOHI
JUDGE**

In the presence of:

Ms. Kahiti for Advocate/Applicant

N/A for the Client/Respondent

Kamau, Court Assistant