

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU
MISC. CIVIL APPLICATION NO. 42 OF 2016

COOTOW & ASSOCIATES ADVOCATESAPPLICANT

VERSUS

MILLICENT WANJIKU NDUN'GU.....RESPONDENT

RULING

1. This ruling is in respect of the Applicant's Notice of Motion dated 17th March, 2025 brought under section 51(2) of the Advocates Act, Advocates Remuneration Order 2014, Order 52 of the Civil Procedure Rules, 2010, and Sections 1A, 1B, 3, and 3A of the Civil Procedure Act and seeking the following Orders:-

1) *That this Honourable 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.53,965.*

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

2. The grounds upon which the application is made are that the Applicant herein was instructed by the Respondent to defend her in Nakuru CMCC No. 951 of 2005 where she had been sued by Daniel Muraya.

3. It is stated that since fees for the Applicant herein were not paid, a Bill of Costs was filed and taxed at Kshs. 53,965 on 1st February, 2016 and a Certificate of Taxation for this amount was issued on 26th November, 2024. However, the same remains unsettled to date.

4. The application is supported by an affidavit sworn by Eva W. Kahiti, a Partner at Cootow & Associates.

5. After reiterating the details of the case and the unpaid fees, Counsel urges the Court to convert the Certificate into a decree to allow for the recovery of the costs from the Respondent, who has deliberately refused to pay.

6. Upon considering the application herein, the Supporting Affidavit and the annexures thereto, the only issue for determination is whether the orders sought should issue.
7. Section 51 of the Advocates Act which is relied on by the Applicant 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.”

8. A perusal of the record indicates that the Applicant/ Advocate herein indeed acted for the Respondent in Nakuru CMCC No. 951 of 2005 where she was being sued by Daniel Muraya. A Bill of Costs was filed and taxed at Kshs. 53,965 on 1st February, 2016 and a Certificate of Taxation for this amount was issued on 26th November, 2024.
9. The Respondent did not attend this Court and did not oppose this application despite being served as evidenced by the detailed Affidavit of Service sworn on 23rd April, 2025 by Alfred Soita Paul, a licensed Court Process Server
10. As it stands, the Certificate of Taxation is final and the taxed costs have not been settled. 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. 53,965/= and a decree issued to that effect.

2. Costs of this 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