

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
MISCELLANEOUS APPLICATION NO. E069 OF 2024

BETWEEN

AMADI & AMADI ADVOCATES
APPLICANT

AND

MONARCH INSURANCE COMPANY LIMITED...
RESPONDENT

RULING

1. The applicant's Notice of Motion is dated 20th June 2025. It has invoked the provisions of section 51 (2) of the Advocates Act and Order 36 and 52 Rule 6 of the Civil Procedure Rule seeking:

- 1. That judgment be entered in favor of the applicant against the respondent for the sum of Kenya Shillings Eighty Two Thousand Three Hundred (Kshs 82,300/-) only being the certified costs due to the applicant as against the respondent;***
- 2. Interest at Court rates on (1) above from 3rd October 2024 until payment in full***
- 3. Cost of this application be awarded to the Applicant.***

2. The application is supported by the grounds on the body of the Motion and the supporting affidavit of Eddie Amadi, an

advocate practicing in the nature and style of the applicant. The gist of the Motion is that the respondent herein instructed the applicant to act for and on its behalf in and defend its interest in **Mavoko CMCC Case No E816 of 2023 Stephen Mulinge David (Suing as a father and next friend to Jamie Mwende Mulinge) vs Daniel Kyalo Mulwa**. The applicant contended that in spite of rendering its legal services, the respondent failed to pay legal fees. In the circumstances, the applicant filed its bill of costs dated 25th March 2024. The same was taxed on 3rd October 2024 at Kshs.82,300.00. A Certificate of Taxation was issued on 9th May 2025.

3. The applicant urged this court to allow the application as the Certificate of Taxation has not been appealed, set aside or altered by any court. In addition, in spite of being served with the Certificate of Taxation, the respondent has never settled that sum.
4. The application was unopposed and proceeded to a hearing on 29th October 2025. After reviewing the Return of Service sworn by Benson Adenya James on 15th July 2025, the court was satisfied that the respondent had been duly served with both the application and hearing notice, but failed to attend court. The application thus proceeded for hearing in the absence of the respondent's. The applicant urged this court to allow the application as prayed.
5. Section 51 (2) of the Advocates Act provides:

“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.”

6. In the ruling dated 3rd October 2024, the taxing master taxed the applicant’s advocate-client Bill of Costs dated 25th March 2024 in the sum of Kshs.82,300.00. The applicant was issued with a Certificate of Taxation dated 9th May 2025. There is no evidence that the decision has been challenged by way of reference or that the same has been varied or set aside. I am therefore satisfied to hold that the application is merited.
7. Accordingly, judgment is entered in favor of the applicant in the sum of Kshs.82,300.00 as against the respondent. The applicant shall also be awarded costs of this application and interest therein at Court rates from the date the bill of costs dated 25th March 2024 was taxed, that is from 3rd October 2024, until payment in full.

It is so ordered.

Dated, signed and delivered at Machakos this 18th day of November 2025.

RHODA RUTTO
JUDGE

In the presence of;

.....Applicant

.....Respondent

Selina Court Assistant

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