



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ELCL MISC APPLICATION NO. E009 OF 2024
KIBATIA & COMPANY ADVOCATES LLP.....
....APPLICANT

=VERSUS=
JAMES IKUA MACHARIA.....
RESPONDENT

RULING

1. Before me for determination is the Notice of Motion application dated 27th August 2024, brought under Section 51(2) of the Advocates Act, Order 51 Rule 1 of the Civil Procedure Rules in which the Applicant seeks the following orders:-

- a) THAT Judgment and decree be entered for the sum of Kshs 255,760/= as taxed and certified by the Deputy Registrar as due to the Applicant.***
- b) THAT the Applicant be at liberty to execute against the Respondent.***
- c) THAT the cost of this application be borne by the Respondent.***

2. *The application is premised on the grounds appearing on its face together with the supporting affidavit of Karuga Maina, Advocate, sworn on even date.*

THE APPLICANT'S CASE

3. The deponent averred that the Respondent engaged their firm to represent him in NAIROBI ELC No. 622 OF 2007, but subsequently declined to pay their legal fees.
4. He further averred that the Respondent stopped communicating with the Applicant causing the matter to stall. Subsequently, the Applicant filed a bill of costs dated 16th January 2024.
5. He further stated that the matter was subjected to taxation, and consequently, the Bill of Costs was taxed at Kshs. 255,760/= and a certificate of taxation dated 12th July 2024 was issued. He stated that the Respondents were served with the certificate of taxation but refused to honor it.
6. Though duly served, the Respondents did not file any response to the application.

ANALYSIS AND DETERMINATION

7. Having considered the application and the supporting affidavit, the only issue for determination is whether judgment should be entered in favor of the Advocate/Applicant in accordance with the Certificate of Taxation dated 12th July, 2024.
8. **Section 51(2) of the Advocates Act** provides as follows:

“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. In the case of Lubulellah & Associates Advocates v N.K. Brothers Limited [2014] eKLR, the court held that:

“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of costs, and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for the recovery of costs.”

10. In the matter at hand, the Applicant has demonstrated the existence of an Advocate-Client relationship with the Respondent. The Advocates-Client bill of costs dated 16th January 2024 was taxed at Kshs. 255,760/= . A Certificate of Taxation was issued on 12th July 2024, and to date, it has not been set aside or varied. Based on the foregoing, I find no reason to deny the Applicant the judgment sought.

11. In the end, I find that the application dated 27th August 2024 is merited and the same is hereby allowed in the following terms:-

a) Judgment is hereby entered for the Applicant against the Respondent in the sum Kshs. 255,760/= in terms of the Certificate of Taxation issued on 12th July, 2024.

b) The Applicant is awarded costs of the application.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 24TH DAY OF NOVEMBER 2025.

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**HON. T. MURIGI
JUDGE**

IN THE PRESENCE OF: -

In the absence of the parties
Ahmed - Court Assistant.