



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELCL MISC APPLICATION NO. E020 OF 2024

KIANIA NJAU & CO. ADVOCATES.....

.....APPLICANT

=VERSUS=

CATHERINE MUTHANJI KARIUKI.....

.....RESPONDENT

RULING

1. Before me for determination is the Notice of Motion dated 28th March 2025, brought under Sections 3 and 3A of the Civil Procedure Act, Section 51(2) of the Advocates Act, Cap 16 Laws of Kenya, in which the Applicant seeks the following orders:-

a) That the certificate of taxation dated 5th December 2024, in the sum of Kshs 945,588/=, be deemed a decree of this court, and judgment be entered against the Respondent for that amount.

b) THAT interest at the rate of 14% be deemed to have accrued from the date of taxation until payment in full.

c) THAT the costs of this application be provided for.

2. The application is premised on the grounds appearing on its face together with the supporting affidavit of Nicholas Kiania Njau Advocate, sworn on even date.

THE APPLICANT'S CASE

3. The deponent averred that he filed a bill of costs against the Respondent, which was taxed, and a certificate of taxation was issued. He further averred that, despite having served the Respondent with the certificate of taxation, she has not taken any steps to pay the amount.
4. In conclusion, he urged the court to allow the application as prayed.

ANALYSIS AND DETERMINATION

5. 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 5th December, 2024.
6. **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.”

7. 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.”

8. 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. 945,588/=. A Certificate of Taxation was issued on 5th December 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.

9. Regarding interest, I have considered the provisions outlined in Rule 7 of the Advocates Remuneration Order, which state as follows:

“An Advocate may charge interest at 14% per annum on his disbursements and costs, whether

by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”

10. In the case of **Kerongo & Company Advocates vs Africa Assurance Merchant Co. Ltd (2019) eKLR**, the court held that: -

“An Advocate who does not provide proof that he had raised the issue of interest before the amount in the Bill of Costs has been paid or tendered in full will not be paid the interest chargeable under Rule 7 of the Advocates Remuneration.

11. The Advocates have not demonstrated that they raised the issue of interest, and therefore, they are not entitled to a 14% annual interest rate.
12. In the end, I find that the application dated 25th March 2025 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. 945, 588/= in terms of the Certificate of Taxation issued on 5th December, 2024.

b) The Applicant is awarded costs of the application.

**RULING DATED, SIGNED, AND DELIVERED VIRTUALLY THIS
21ST DAY OF NOVEMBER, 2025.**

.....
**HON. T. MURIGI
JUDGE**

IN THE PRESENCE OF: -

Owino holding brief for Kiana Njau for the Applicant

Ahmed – Court Assistant

ORIGINAL