

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
MISCELLANEOUS CIVIL APPLICATION NO. E242 OF 2023

K. M. MBURU & ASSOCIATES..... APPLICANT/ADVOCATE

VERSUS

JAVISAPA ENTERPRISES LIMITED RESPONDENT/CLIENT

RULING

1. Before me is a Notice of Motion application dated 13th June 2025 by the Respondent/Client (**Applicant**) seeking orders under Section 51 of the Advocates Act, Sections 1A, 1B & 3A of the Civil Procedure Act and Order 51 Rules 1 to 3 of the Civil Procedure Rules **that:-**

1. This Honourable Court be pleased to enter judgement for the Respondent/ Client for Kenya Shillings One Million, Thirty-One Thousand, One Hundred Fifty (Kshs.1,031,150) as per the Certificate of Taxation issued herein on 10th March 2025 together with interest at 16% from 10th March 2025.

2. Costs of the application be borne by the Applicant.

2. The application is premised on the grounds that the Advocate-Client Bill of Costs dated 4th December 2023 was taxed at Kenya Shillings Negative One Million, Thirty-One Thousand, One Hundred Fifty (Kshs-1,031,150) on 19th September 2024, and a Certificate of Costs had been issued on 10th March 2025 and became final but the Applicant/Advocate (**Respondent**) has not settled the certificate hence the need for this application for entry of judgment.

3. The Taxing Master found that the Respondent owed the Applicant the above stated sum of Kshs.1,031,150/= owing to

- the fact that the Applicant had already paid the Respondent a sum of Kshs.5,000,000/= as legal fees.
4. The client resisted the application the replying affidavit sworn on the 14th October 2025 in which the Applicant/Advocate (**Respondent**) has totally denied the contents of the application and contends that the Client/Respondent (**Applicant**) herein indubitably owes the Advocate Kshs.1,031,150/=.
 5. The Respondent acknowledges at Paragraph 4 of the Replying affidavit that upon taxation of the Bill of Costs arising out of HCCCMISC.E055/2022, the Taxing Master on 19th September 2024 ruled that the amount owing is **Kshs. -1,030,150/=**. The Respondent argues that the ruling was subjected to a reference before the High Court which on 17th January 2025 awarded the Advocates **KSHS.1,031,150/=**.
 6. I have considered the application and the replying affidavit in opposition thereto. I have also read the ruling of the Taxing Master dated 19th September 2024 and the ruling of this court delivered on 17th January 2025.
 7. Clearly, the ruling of this court affirmed the amount that had been taxed by the Taxing Master which is **Kshs.- 1,031,150/=**. The dot (.) appearing instead of a negative (-) in this Court's ruling could have been a typo error. The Court could not have affirmed that which did not exist.
 8. I have seen the Advocates letter dated 12th March 2025 and the Deputy Registrar's remarks on the same requesting parties to file a formal application seeking clarification from the Judge. The same letter was brought to my attention and I clarified that the correct amount should be Negative Kshs.-1,031,150.
 9. Notably there's no dispute on retainer and neither has the certificate of Costs dated 10th March 2025 herein been

challenged, varied or set aside. The certificate is evidence of the certified amount.

10. Section 51(2) of the Advocates Act provides that:-

“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 costs covered thereby, and the court may make such order in relation thereto as it thinks fit, including, in the case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”

11. In **Lubulellah & Associates Advocates v N K Brothers Limited** [2014] eKLR the court observed 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. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the applicant against the respondent herein for the taxed sum indicated in the Certificate of Taxation that was issued on November 25, 2012.”

12. Consequently, I find that there's no justifiable cause not to allow the application dated 13th June 2025. It is allowed as prayed hence judgment is entered in favour of the Client/Respondent (**Applicant**) for Kshs.1,031,150/= plus interest at 14% from the date of this ruling until payment in full.

13. The costs of this application are awarded to the Applicant.

RULING WRITTEN, DATED & SIGNED AT MACHAKOS THIS THIS 18TH
NOVEMBER 2025

**NOEL I. ADAGI
JUDGE**

DELIVERED VIRTUALLY ON TEAMS AT MACHAKOS THIS 18TH NOVEMBER
2025

In the presence of: