



**Geoffrey Muriungi Kiugu & Co. Advocates v County Government of
Kiambu (Judicial Review Miscellaneous Application E127 of 2021)
[2025] KEHC 18571 (KLR) (Judicial Review) (15 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18571 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E127 OF 2021
RE ABURILI, J
DECEMBER 15, 2025**

BETWEEN

GEOFFREY MURIUNGI KIUGU & CO. ADVOCATES APPLICANT

AND

COUNTY GOVERNMENT OF KIAMBU RESPONDENT

RULING

1. This ruling determines the applicant's notice of motion dated 23/6/2025 which was heard by way of oral submissions on 12/11/2025. The applicant seeks orders that this court be pleased to enter judgment and decree in favour of the applicant/advocate for the sum of Kshs 1,588,219.80 as per the certificate of taxation of costs issued on 20th April, 2022.
2. The applicant also prays that the taxed costs do attract interest at the rate of 12% per annum from the date of delivery of the ruling to the bill of costs dated 25th August 2021 being the 17th March 2022 until payment in full and that costs of the application be borne by the respondent.
3. The application is primarily specifically brought under the provisions of section 51 (2) of the *Advocates Act* and generally under the *Civil Procedure Act* and Rules and the Advocates Remuneration Order.
4. The grounds upon which the application is predicated are on the face of the application which is supported by the affidavit sworn by Geoffrey Muriungi Kiugu advocate/ applicant herein, annexing documents thereto and giving the history of this matter which was a client advocate bill of costs.
5. More importantly, is that the costs as taxed have never been challenged and that there is no dispute as to retainer hence the certificate of costs is valid and that therefore judgment ought to be entered and decree issued in his favour, in the interest of justice.



6. In the replying affidavit sworn on 24th October, 2025 by Elizabeth Kibathi, Deputy Director, Legal Services of the respondent County Government of Kiambu, she contests the interest sought by the applicant and deposes that such interest is not payable as it was never included in the applicant/advocate's bill of costs or in the ruling for costs or certificate of costs hence there is no legal basis for him to claim interest in the judgment sought to be entered on the certificate of costs. She prays that interest be declined and each party bear their own costs.
7. The application was argued orally on 12/11/2025 with Ms Njeri submitting on behalf of the applicant and maintaining that the applicant is entitled to the interest sought in the application while Mr. Mararo relied on the affidavit in reply, opposing the application on interest.
8. The applicant relied on the case of Lubullelah & Associates Advocate vs. NK Brothers Ltd [2015] eKLR and urged this court to grant the orders sought, arguing that due to inflation, he should be paid interest that has accrued on the costs as taxed, demand for settlement having been made vide letter dated 6/5/2022.
9. In opposition to the grant of the interest and costs, Mr Mararo relied on the replying affidavit of Elizabeth Kibathi sworn on 24th October, 2025. Responding to the applicant's reliance on the Lubullelah & Associates case, he submitted that the Lubullelah case cited other cases and that the court in the said case stated that if an advocate files his bill of costs without asking for interest, then he forfeits interest as provided for in Rule 7 of the Advocates Remuneration order which deals with interest charged by Advocates on disbursements which accrues upon expiry of 30 days from the date of delivery of the bill to the client.
10. He argued that in the result, and given that the applicant did not claim interest while filing the bill of costs dated 21/8/2021, they are not entitled to interest.
11. In a rejoinder, Ms Njeri cited paragraph 31 of the Lubullelah case, urging that they were seeking for interest at court rates which is within the mandate of this court.

Analysis and determination

12. I have considered the application seeking for judgment on taxed costs for the advocate and the opposition thereto as argued orally by both parties' counsel. The issues for determination are whether the application is merited on the limbs for judgment, interest and costs.
13. On the prayer for judgment on taxed costs between advocate and client, 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 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.”
14. In the case of Lubullelah & Associates Advocates vs 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.”

15. In this case, there is no dispute that there is a valid certificate of costs issued by the taxing master on 20th April, 2022 for a sum of Kshs 1,588,219.80 and that the same has not been set aside or varied. Neither is there evidence that the said sum or any part thereof has been settled. There is also no dispute as to retainer and no reference was filed challenging the taxed costs.
16. Additionally, the respondent does not dispute that the applicant is entitled to judgment on taxed costs and a decree to issue. The only issue it has with is the interest sought by the applicant.
17. In the circumstances, I hereby enter judgment for the applicant against the respondent in the sum of Kshs 1,588,219.80 as per the certificate of taxation of costs issued on 20th April, 2022.
18. On the question of whether interest sought is payable, the respondent contends that such interest not having been granted by the taxing master and not having been claimed by the applicant in the bill of costs, cannot be sought and awarded at this stage.
19. The applicant maintains that he is entitled to interest at court rates, which is in the discretion of the court as was stated in the Lubulellah case cited herein by the applicant.
20. Rule 7 of the Advocates Remuneration Order provides that:

“ An advocate may charge interest at 14% per annum on his disbursements and cost, 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 it raised before the amount of the bill has been paid or tendered in full.”
21. This is not the first time that the Court has been confronted by such application for interest on advocate client taxed costs and I must state here that this is a matter that is now settled, only that parties did not want to exercise their research skills on the issue.
22. This Court has variously applied the binding Court of Appeal decision in the case of *Otieno, Ragot & Company Advocates v Kenindia Assurance Co Ltd (Civil Appeal 165 of 2019) [2023] KECA 1443 (KLR) (24 November 2023) (Judgment)* where the superior Court stated as follows on this issue of interest, and clarified at what stage interest ought to be claimed by an advocate seeking costs from the client:

“ As should be obvious from the unbundling of rule 7 of the Advocates Remuneration Order and section 51(2) of the *Advocates Act* above, it was not open to the appellant to claim the potentially permissible interest rate of 14% for the first-time during adoption proceedings under section 51(2). This is because it was incumbent upon the advocate to put the client on notice that he intended to claim the interest at the point at which he drew the Bill of Costs. He did not. If an advocate is interested in claiming the potentially allowable interest at 14% p.a., he must make the claim in the Bill of Costs. Once the advocate includes the claim of interest, it must be litigated before the Taxing Master in the taxation proceedings. If it is awarded by the Taxing Master, it would be well and good for the advocate. However, if it is not awarded in the taxation proceedings and included in the Certificate of Costs, the advocate must challenge the omission in a reference to the court under rule 11 of the Advocates Remuneration Order. It is not open to the advocate to spring the claim of interest for the first time at the enforcement proceedings under section 51 of the *Advocates Act*.



To reiterate, the policy rationale for this interpretation is that the advocate should put the client on notice about the totality of the claim he has against the client at the earliest instance. There is a policy preference against an advocate making piecemeal claims against the client. Requiring an advocate to raise the claim for interest at the earliest instance gives the client an opportunity to object to any delays by the advocate in raising the Bill of Costs. This, in turn, acts as a disincentive for advocates to needlessly delay raising a Bill of Costs with the sole objective of increasing the amounts due through the allowable interests under rule 7 of the Advocates Remuneration Order. Conversely, it incentivizes clients to promptly pay the amounts due to the advocate as claimed in the Bill of Costs or raise an objection promptly. In the present case, the appellant neither claimed the interest at 14% p.a. in his Bill of Costs nor filed a reference under rule 11 of the Advocates Remuneration Order. Consequently, it was improper for the appellant to raise the claim for the first time in the section 51(2) proceedings. It follows that the learned judge did not misapprehend the law or abuse his discretion in disallowing the claim.”

23. From the above cited case which binds this Court, I find that the omission by the Applicant to claim interest on the taxed sums at the suitable stage of the demand for settlement of itemised bill of costs as required under Rule 7 of the Advocates Remuneration Order disentitles him of any award of interest at this tail end of the proceedings.

24. The Court of Appeal reiterated the above position in the above case, further adding that:

“22. To reiterate, the rule of law announced in the companion case, Kisumu Civil Appeal No. 129 of 2018, to the effect that an advocate is not permitted to surcharge a client interest at the rate of 14% p.a. under Rule 7 of the Advocates Remuneration Order unless he notified the client of that charge in his fee note/bill to the client and in his Bill of Costs as lodged in Court has no application in this case. This is because, here, the advocate included the interest in the Bill of Costs and benefitted from a favourable award by the Taxing Master. It was incumbent upon the respondent, if dissatisfied with the award, to challenge it by invoking Rule 11 of the Advocates Remuneration Order; and it did not do so.”

25. The Court of Appeal further clarified the position and to expunge any confusion on interest allowable on advocate/client costs and stated as follows, in an authoritative manner:

“I believe that this decision and its companion one in Kisumu Civil Appeal No. 129 of 2018 will remove the cobwebs of confusion reigning in this area. It comes down to a salutary advice for advocates: if one hopes to claim the 14% p.a. interest under Rule 7 of the Advocates Remuneration Order on a fee note or Bill of Costs, one must make the claim in the fee note and/or Bill of Costs. If the interest is not claimed in the fee note or Bill of Costs, an advocate loses his right to claim for it subsequently. Similarly, if the interest of 14% under Rule 7 of the Advocates Remuneration Order is not specifically awarded during the taxation proceedings, the advocate must invoke Rule 11 of the Advocates Remuneration Order and file a reference to protest the omission. The advocate cannot wait to introduce the interest during enforcement proceedings under section 51(2) of the *Advocates Act*. If the advocate demands interest at that late stage, he will likely suffer two potential perils: the court can only award interest at earliest from the date of lodging the Bill of Costs; and the interest is at the discretion of the court. However, where the interest of 14% p.a. under Rule 7 of



the Advocates Remuneration Order is specifically claimed in the Bill of Costs and awarded during the taxation proceedings, the interest will apply to the taxed amount until it is fully paid. An application under 51(2) of the *Advocates Act* will not act to reduce the interest rate or otherwise create a reservoir of discretion for the judge to change the interest rate.”

26. In Prof Tom Ojienda & Associates v County Government of Nairobi (Judicial Review Miscellaneous Application E027 of 2020) [2025], this Court quite recently stated as follows:

“Under the cited Rule 7 of the Advocates Remuneration Order, to lawfully claim the 14% interest, or any part thereof, on the taxed bill of costs, the advocate must:

- a. Serve the itemized bill of costs to the client,
- b. Explicitly include a demand for interest at 14% in the bill, and c. Wait for 30 days to lapse after service before interest begins to accrue. If the advocate fails to include the interest demand in the bill, then:
 - a. The Taxing Officer lacks jurisdiction to award that interest during taxation; and
 - b. The Court cannot include interest in the certificate of taxation or any resulting judgment adopting the certificate of costs.”

27. For all the above reasons, I find that no interest is payable on the costs subject of these proceedings for reasons that although the advocate has asked for interest at 12% in the application under Section 51(2) of the *Advocates Act* while seeking judgment on the taxed costs, at the time of drawing and serving the bill of costs upon the client, he did not include any interest in the demand and neither did he include it in the filed bill of costs. Neither was such interest awarded by the taxing master during the taxation proceedings.

28. Accordingly, the interest sought is hereby declined and dismissed.

29. In the end, I enter judgment for the applicant/advocate against the respondent/client for Kshs 1,588,219.80 with no interest payable.

30. As only a portion of the application which is a procedural requirement is successful, I order that each party bear their own costs of the application.

31. Decree to issue.

32. This matter shall now be mentioned before the Deputy Registrar on 4/2/2026. To confirm settlement of the decreed costs.

33. I so order.

DATED, SIGNED & DELIVERED AT NAIROBI THIS 15TH DAY OF DECEMBER, 2025

R.E. ABURILI

JUDGE

