

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & TAX DIVISION
HCCOMMISC. NO. E056 OF 2025

**ROBINSON ONYANGO MALOMBO T/A
O. M. ROBINSON**

**& COMPANY
ADVOCATES.....APPLICANT/ADVOCATE**

VERSUS

**EMCO BILLETS &
STEEL
LIMITED.....RESPONDENT/CLIENT**

RULING

1. This is a Ruling in respect to the Notice of Motion dated 05th June, 2025. The Applicant filed the Notice of Motion aforesaid seeking the following orders;

- a.) *THAT Judgment be entered for the Applicant against the Respondent in the sum Kshs. 354,537.14/= being the sum taxed and certified by the Deputy Registrar on 8th April 2025 as due to the Applicant together with interest thereon.*
- b.) *THAT the costs of this Application be provided for.*

Background Facts

2. The Application was supported by the Affidavit of **ROBINSON ONYANGO MALOMBO**, who stated that the Applicant/Advocates provided legal services to the Respondent/Client. This was in respect to legal representation in ***Milimani CMCC. Commercial Suit No. E799 of 2020 between Joseph Mbaria Muraya t/a Ramaki Enterprises & Anthony Macharia Maina t/a Hunters Enterprises and Emco Billets & Steel Limited.*** That the Advocate/Client relationship came across headwinds and the relationship broke. The Advocate proceeded to file a Bill of Costs for the assessment and determination of their fees. That their costs were taxed at Kshs. 354,537.14/= on 08th April, 2025 and a Certificate of Taxation issued on 14th April, 2025. The Respondent has neither contested nor sought to set aside the certificate and has failed to pay the taxed costs despite being duly served. That under Section 51(2) of the Advocates Act, the certificate can be enforced as a Court decree where there is no dispute on retainer.

3. The Application is uncontested as the Respondent neither appeared nor responded to the Application.

Issues for determination

4. Upon considering the Application, the supporting affidavit and the written submissions filed herein the following single issue commends itself for determination:

a) Whether the application is merited for the Court to adopt the Certificate of Taxation and enter judgment in the sum of Kshs. 354,537.14/=.

Analysis

5. The Advocate-Client Bill of Costs dated 15th January, 2025 was taxed in the sum of Kshs. 354,537.14/= by the Taxing Officer. The Certificate of Taxation was issued in the sum of Kshs. 354,537.14/= on 14th April, 2025. The Court has seen a copy of the certificate attached to the application.

a) Whether the application is merited for the Court to adopt the Certificate of Taxation and enter judgment in the sum of Kshs. 354,537.14/=

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. There being no opposition, and having perused the Certificate of Costs attached dated 14th April, 2025, the Court is satisfied that the order sought is merited.
8. The Applicant has satisfied the conditions of Section 51(2) of the Advocates Act. Thus, the Certificate of Taxation dated 14th April, 2025 is entered as judgment against the Respondent.
9. As to Costs, the same are awarded to the Applicant.

Determination

10. The Applicant’s/Advocates Application by way of a Notice of Motion dated 5th June, 2025 is allowed as follows;
 - a.) *THAT Judgment be and is HEREBY entered for the Applicant against the Respondent in the sum Kshs. 354,537.14/= being the sum taxed and certified by the*

Deputy Registrar on 8th April 2025 as due to the Applicant together with interest thereon at Court rates from the date of filing the Notice of Motion aforesaid until payment in full.

b.) THAT the costs of this Application be borne by the Respondent.

11. It is so ordered.

**DATED, SIGNED AND DELIVERED AT MILIMANI THIS
04TH DAY OF DECEMBER, 2025.**

NJOROGE BENJAMIN K.

JUDGE.

In the presence of;

Miss Malombo holding brief for Mr. Malombo for the Applicant/Advocates.

N/A for the Respondent/Client.

Mr. Peter Wabwire - Court Assistant.