

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT**  
**NAIROBI**

**MISCELLANEOUS APPLICATION NO. E352 OF 2024**

*(Before Hon. Lady Justice Agnes Kitiku Nzei)*

**SI. MWAURA & CO. ADVOCATES ...ADVOCATE/APPLICANT**

*VERSUS*

**MEDITEST DIAGNOSTICS**

**SERVICES LIMITED .....RESPONDENT/CLIENT**

**RULING**

1. The application before me for determination is the Applicant/Advocate's Notice of Motion dated 21<sup>st</sup> July, 2025.

The advocate/Applicant is seeking the following Orders:-

(a) *That the Certificate of Taxation dated 15<sup>th</sup> July, 2025 be adopted as a Judgment and decree of the Court and the Respondent (**Sic**) be at liberty to execute.*

(b) *That Judgment be entered against the Respondent herein in the sum of **Kshs.1,416,975/=** in terms of the Certificate of Taxation **dated 15<sup>th</sup> July,***

**2025**, with interest thereon at Court rates from the date of Taxation until payment in full.

(c) That costs be provided for.

2. The application sets out on its face the grounds upon which it is brought, and is based on the supporting affidavit of **Sammy Mwaura Advocate** sworn on 21<sup>st</sup> July, 2025. It is deponed in the said supporting affidavit:-

(a) that vide a Ruling dated 14<sup>th</sup> July, 2025, the (Applicant's) Advocate-Client Bill of Costs was taxed at **Kshs.1,416,975/=** and a Certificate of Taxation dated 15<sup>th</sup> July, 2025, was subsequently issued.

(b) that despite the Certificate of Taxation having been served on the Respondent, the Respondent has refused and/or declined to settle the taxed costs, hence the present application.

(c) that the Respondent has not filed reference or made any application to vary and/or set aside the Certificate of Taxation, and that there is no stay in the matter.

*(d) that the Applicant stands to suffer irreparable damage and substantial loss if this Court declines to allow the application. That the Respondent will not suffer any prejudice if the application is allowed.*

3. A copy of the Certificate of Taxation, duly issued on 15<sup>th</sup> July, 2025, is annexed to the supporting affidavit.
4. The application was placed before me under a certificate of urgency on 28<sup>th</sup> July, 2025. I declined to certify the application as urgent as it did not demonstrate any urgency. I directed that the application be served on the Respondent within stated timelines, and gave directions on filing of response to the application by the Respondent and filing of written submissions. No response to the application was filed.
5. When the matter came up in Court for fixing of a Ruling date on **7<sup>th</sup> October, 2025**, Counsel for the Respondent, **Mr. Mekenye**, confirmed that he had been served with the application, and told the Court that he had been instructed

to file a reference against the taxation intended to be converted into a Judgment of the Court. The Court granted the Respondent 14 days to file and serve whatever documents it wanted to file, with corresponding leave to the Applicant to respond to such documents, and fixed the matter for mention 1<sup>st</sup> December, 2025.

6. When the matter was called out on 1<sup>st</sup> December, 2025, there was no appearance for the Respondent, and Counsel for the Claimant informed the Court that he had not been served with any response to the Applicant's application, and that no response had been filed. The Court reserved a date for Ruling, and directed that the Respondent be served.
7. The Applicant's Notice of Motion dated 21<sup>st</sup> July, 2025 stands unopposed.
8. Section 51(2) of the Advocates Act, pursuant to which the application is brought, provides as follows:-

***“(2) The certificate of a 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 a case where the retainer is not disputed, an order that Judgment be entered for the sum certified to be due with costs.”***

9. The aforesaid sum of taxed and certified costs has not been shown to have either been set aside or altered by this Court, and the retainer is not denied. Indeed, the Respondent chose not to file response to the application, despite having been given adequate time by the Court to file.

10. In the circumstances, the Applicant’s Notice of Motion dated 21<sup>st</sup> July, 2025 is hereby allowed in the following terms:-

**(a) Judgment is hereby entered for the Applicant against the Respondent in the sum of Kshs.1,416,975/= being the Applicant’s taxed and certified costs.**

**(b) The Applicant is awarded interest at Court rates on the decreed sum, to be calculated from the date of taxation until payment in full.**

**(c) A decree shall issue.**

**(d) Costs of the application are awarded to the Applicant, to be agreed or taxed.**

11. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS  
19<sup>TH</sup> DAY OF DECEMBER 2025**

**AGNES KITIKU NZEI**

**JUDGE**

**ORDER**

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

**AGNES KITIKU NZEI**

**JUDGE**

Appearance:

Mr. Kitila for the Applicant

No appearance for the Respondent

ORIGINAL