

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU
CIVIL MISC. APPLICATION NO. E200 OF 2024

KINYUA & MAINGI & CO. ADVOCATES..... APPLICANT

VERSUS

TRIDENT INSURANCE CO. LIMITEDRESPONDENT

RULING

1. By a Notice of Motion application dated 26th March 2025 and brought under Section 51 (2) of the Advocates Act Cap 16 Laws of Kenya, the Applicant seek orders that:-

1. Judgment be entered in favor of the Applicant against the Respondent the sum of Kshs. 145,200/= being the certified costs due to the Applicant as against the Respondent.

2. The Respondent does pay to the Applicant the costs of the application together with interest on the taxed sum.

2. The grounds on the face of the application and supported by the Affidavit sworn by **Njoki Kinyua** Advocate on 26th March 2025 are that the Respondent instructed the firm of Kinyua & Maingi & Co. Advocates to act for the Defendant in but the Respondent failed to pay the legal fees. This necessitated the Applicant to file the Bill of Costs which was eventually taxed at **Kshs. 145,200/=** and a Certificate of Taxation issued to that effect.

3. It is deponed that despite being served with the copy of the Ruling and the Certificate of Taxation, the Respondent refused, failed and/or neglected to settle the taxed costs.

4. The Applicant further states that the Certificate of Taxation has not been appealed against, set aside or altered by the Respondent and therefore, it is only fair that the application be allowed as prayed.

DETERMINATION

5. This Court has noted that though duly served with this application, the Respondent did not file any response leaving the application unopposed.
6. From the material availed to this Court, it is evident that indeed the Applicant herein was duly instructed by the Respondent to act for the 2nd Defendant and did act for him in Nakuru CMCCE060 of 2022 and Judgment entered therein.
7. The Respondent was duly served with the Bill of Costs dated 12th March 2024 and the Taxation Notice dated 12th March r 2024 but there was no response. The Bill of Costs was duly taxed at Kshs. 145 ,200/= vide the Taxing Officer's ruling delivered on 28th February, 2025.
8. Section 51 (2) of the Advocates Act which 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.”

9. There been no dispute as to the retainer and with no reference filed in regard to the ruling on taxation, and with the Certificate of Taxation herein having not been set aside or altered by this Court, the taxed costs are considered final.
10. As regards interest, paragraph 7 of the Advocates (Remuneration) Order provides that:-

“An advocate may charge interest at 14 per cent 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,

provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.”

11. In the circumstances, the application dated 26th March, 2025 is allowed as follows:-

1. Judgment be and is hereby entered in favour of the Applicant as against the Respondent in the sum of Kshs. 145,200/=.
2. The Applicant is awarded interest on the said sum at the rate of fourteen (14%) per cent per annum calculable after Thirty (30) days from the date the Respondent was served with the Bill of Costs until payment in full.
3. Costs of this application are awarded to the Applicant.

Dated, signed and delivered at Nakuru this 4th day of February, 2026.

PATRICIA GICHOHI
JUDGE

In the presence of:

Ms Samera h/b for Ms. Kinyua for the Applicant

N/A for the Respondent

Erickson, Court Assistant