

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & TAX DIVISION
MISC. APPLICATION NO. E006 OF 2019

GITONGA MUREITHI & COMPANY
ADVOCATES.....ADVOCATE/APPLICANT
VERSUS
FASTLANE FREIGHT
FORWARDERS.....RESPONDENT/CLIENT

RULING

Introduction

1. Before the Court is the Notice of Motion dated 26th May 2025, brought by the Advocate/Applicant pursuant to Section 51(2) of the Advocates Act seeking:
 - i. Judgment in the sum of Kshs. 259,000.00 as per the Certificate of Taxation dated 5th December 2024;
 - ii. Interest at 14% per annum from the date of judgment until payment in full; and
 - iii. Costs of the Application.
2. The Application is supported by the Affidavit of **Stephen Gitonga Mureithi** - Advocate, sworn on the same date. The Respondent has not filed any response to the Application. The record, therefore, stands uncontroverted.

Analysis and Determination

3. Having considered the pleadings, the submissions filed herein, and the applicable law, the Court finds that the sole issue for determination is whether the application is merited.
4. Section **51(2)** of the Advocates Act provides that a Certificate of Taxation is **final as to the amount**, unless set aside or altered. The Court is empowered, in a case where the retainer is not disputed, to enter judgment for the sum certified.
5. The Certificate of Taxation dated **5th December 2024** has not been challenged by way of reference. There is also no dispute on the retainer. The legal effect is that the Court's role is purely ministerial, that is, to enter judgment.
6. The jurisprudence is settled. In **Lubulellah & Associates Advocates v N K Brothers Ltd [2014] KEHC 8685**, the Court held that where a Certificate of Taxation is unchallenged, the only step remaining is the entry of judgment for the certified sum. A similar position was reiterated in **Francis N. Gacathi & Co. Advocates v Hezron Soi [2021] eKLR**. The submissions filed by the Applicant accurately capture this position.
7. In the present matter, the taxed costs amount to **Kshs. 259,000.00**, and the Certificate remains intact. Judgment must therefore follow as a matter of law.
8. As to whether interest at 14% per annum is payable, the Court notes that the Applicant claims interest under **Rule 7 of the Advocates Remuneration Order**, which permits an advocate to charge **14% per annum** on costs and disbursements, provided the claim is raised before payment is tendered in full.

9. The Applicant expressly sought interest in the Application and in the written submissions. There is no evidence that the bill was settled or tendered in full. Courts have held, including in [E. W. NJERU & CO V ZAKHEM CONSTRUCTION \(K\) LIMITED \[2013\] KEHC 3376 \(KLR\)](#), that failure to expressly claim interest results in forfeiture. Here, the Applicant has expressly claimed the same.
10. The Court therefore finds it proper to award, as prayed, interest at 14% per annum on the judgment sum from the date of judgment until payment in full.
11. On costs, **Section 27(1)** of the Civil Procedure Act provides that costs follow the event unless the Court orders otherwise for good reason. The Respondent's failure to settle the taxed costs and its failure to oppose the Application necessitated these proceedings. No reason exists to deprive the successful Applicant of costs.
12. The Applicant is therefore entitled to the costs of this Application.

Disposition

13. In light of the foregoing, the Court makes the following orders:
- i. Judgment is hereby entered for the Advocate/Applicant against the Respondent in the sum of Kshs.259,000.00 as

certified in the Certificate of Taxation dated 5th December 2024.

- ii. The judgment sum shall attract interest at 14% per annum in accordance with Rule 7 of the Advocates Remuneration Order, from the date of this judgment until payment in full.
- iii. The Respondent shall bear the costs of this Application.

14. It is so ordered.

**SIGNED, DATED, and DELIVERED IN VIRTUAL COURT THIS
19TH FEBRUARY 2026**

**ADO MOSES
JUDGE**

In the presence of: -

C/A - Moses

Ms. Gitari.....for the Advocate/Applicant

N/A.....for the Respondent