



**BM Mungata & Co Advocates v County Government of Machakos (Miscellaneous Application 188 of 2023) [2026] KEHC 3717 (KLR) (12 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3717 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
MISCELLANEOUS APPLICATION 188 OF 2023**

**RC RUTTO, J**

**MARCH 12, 2026**

**BETWEEN**

**BM MUNGATA & CO ADVOCATES ..... APPLICANT**

**AND**

**COUNTY GOVERNMENT OF MACHAKOS ..... RESPONDENT**

**RULING**

1. The applicant has filed a Notice of Motion, dated 3<sup>rd</sup> November 2025. It has invoked the provisions of section 51 (2) of the *Advocates Act* section 1A and 1B of the *Civil Procedure Act*, and Order 51 Rule 1 of the Civil Procedure Rule seeking:
  1. That judgment be entered for the Applicant and decree do issue for the taxed costs of kshs.287,110/= with interest from the date taxation
  2. That the costs of this application be provided for.
2. The application is supported by the grounds on the body of the application together with the affidavit of Lucy Nzili an Advocate, practicing in the firm of B.M Mungata the applicant. The gist of the motion is that the respondent herein instructed the applicant to act for and on its behalf in and defend its interest in Machakos High Court Constitutional Petition No 21 of 2019 Gideon Ndambuki Munyao & Others v County Government of Machakos & Another. The applicant contended that in spite of rendering its legal services, the respondent failed to pay legal fees. In the circumstances, the applicant filed its bill of costs dated 5<sup>th</sup> October 2023. The same was taxed on 24<sup>th</sup> February 2025 at Kshs.287,110/-. A Certificate of Taxation was issued on 22<sup>nd</sup> October 2025.
3. The applicant urged this court to allow the application as the Certificate of Taxation has not been appealed, set aside or altered by any court. In addition, in spite of being served with the Certificate of Taxation, the respondent has never settled that sum.



4. The application was unopposed and proceeded to a hearing on 12<sup>th</sup> February 2026. After reviewing the Return of Service sworn by Alex Muthenya Wambua on 10<sup>th</sup> December 2025, the court was satisfied that the respondent had been duly served with both the application and hearing notice, but failed to attend court. The application thus proceeded for hearing in the absence of the respondents. The applicant urged this court to allow the application as prayed.

5. Section 51 (2) of the Advocates Act provides:

“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.”

6. In a Ruling dated 24<sup>th</sup> February 2025, the taxing master taxed the applicant’s advocate-client Bill of Costs dated 5<sup>th</sup> October 2023 in the sum of Kshs287,110/-. The applicant was issued with a Certificate of Taxation dated 22<sup>nd</sup> October 2025. There is no evidence that the decision has been challenged by way of reference or that the same has been varied or set aside. I am therefore satisfied to hold that the application is merited.

7. Accordingly, judgment is entered in favor of the applicant in the sum of Kshs.287,110/- as against the respondent. The applicant shall also be awarded costs of this application and interest therein at Court rates from the date the bill of costs dated 5<sup>th</sup> October 2023 was taxed, that is from 24<sup>th</sup> February 2025, until payment in full.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 12<sup>TH</sup> DAY OF MARCH 2026.**

**RHODA RUTTO**

**JUDGE**

In the presence of;

.....Applicant

.....Respondent

Selina Court Assistant

