

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI**  
**COMMERCIAL AND TAX DIVISION**  
**MISC. APPLICATION NO. E 152 OF 2026**

**WARUHIU K'OWADE & NG'ANG'A**  
**ADVOCATES.....APPLICANT**  
**VERSUS**  
**PATRICK ONYANGO**  
**JUMA.....RESPONDENT**

**RULING**

**Introduction**

1. Before the Court is a Notice of Motion dated 16th February 2026, brought under Section 51(2) of the Advocates Act and Order 50 of the Civil Procedure Rules, seeking the adoption of the Certificate of Taxation dated 7th October 2025 as judgment of the Court in the sum of **Kshs. 288,724.80.**
2. The application is supported by an affidavit sworn by **Elizabeth Muthama**, counsel for the Applicant, and is premised on grounds that the Advocate/Client Bill of Costs in HCCOMMISC/E949/2024 was taxed, a Certificate of

Taxation issued, and no reference has been filed by the Respondent.

3. The Respondent did not file any replying affidavit, grounds of opposition, or submissions despite service. An affidavit of service sworn on 24 February 2026 in that regard.
4. In support of the application, the Advocate filed submissions dated 13 March 2026, which the Court has duly considered.

### **Analysis and Determination**

5. Having considered the application and the submissions on record, the Court finds that the sole issue for determination is whether the Certificate of Taxation dated 7th October 2025 should be adopted as a judgment of the Court.
6. The applicable legal framework is Section **51(2)** of the Advocates Act which provides in part that:  
*“The certificate of the taxing officer... 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... including... that judgment be entered for the sum certified to be due where the retainer is not disputed.”*

7. This provision has consistently been applied by the courts. The Supreme Court in [Kenya Airports Authority v Otieno, Ragot & Company Advocates \[2023\] KESC 56 \(KLR\)](#), stated as follows regarding the wordings employed under Section 51(2):

“The words employed in the above provision are clear and demonstrate that the intention of the Legislature is that the costs ascertained by the certificate of taxation or costs, are final with respect to costs covered therein. In other words, a certificate of taxed Party-Party costs is final on the costs/fees ascertained in the Party-Party costs.....”

8. Similarly, in **Ahmednasir Abdikadir & Co. Advocates v National Bank of Kenya Ltd [2006] eKLR**, the Court held that once a certificate of taxation has been issued and no reference has been filed to challenge it, the court’s role is merely to enter judgment for the sum certified.

9. Further, in **Lubulellah & Associates Advocates v N.K. Brothers Ltd [2014] eKLR**, the Court stated that:

“A certificate of costs that has not been set aside or altered is final as to the amount of the costs and the court has no option but to enter judgment in terms of the certificate.”

10. These authorities affirm that the Court does not sit on appeal over the taxation unless a reference has been filed under Rule 11 of the Advocates Remuneration Order.
11. In the present case, the evidence before the Court shows that the Applicant lodged a Bill of Costs dated **12th November 2024** in **HCCOMMISC/E949/2024**.
12. It is also clear from the record that the Bill was taxed on **25th July 2025** at **Kshs. 388,724.80**, less Kshs. 100,000 already paid, leaving a balance of **Kshs. 288,724.80**. A **Certificate of Taxation dated 7th October 2025** was issued by Hon. Stella Sagwe, Deputy Registrar.
13. The Court notes from the email correspondence annexed as "EM3" that the Respondent was served with the Certificate of taxation and that no reference under **Rule 11** of the Advocates Remuneration Order has been filed. Further, there is no evidence that the retainer is disputed.
14. From the foregoing, the Applicant has therefore satisfied all statutory and judicially settled requirements for entry of judgment under Section 51(2). There is no material before the Court that would warrant withholding judgment.
15. On interest, the Court notes that the Applicant did not seek interest under **Rule 7** of the Advocates Remuneration

Order in the Motion. Consequently, the Court will not pronounce itself on the same.

16. The upshot of the foregoing is that the present application is merited and is therefore allowed on the following terms:

- i. Judgment is hereby entered in favour of the Applicant in the sum of Kshs. 288,724.80 as certified in the Certificate of Taxation dated 7th October 2025.
- ii. The Certificate of Taxation dated 7th October 2025 is hereby adopted as a judgment and decree of this Court.
- iii. The Applicant shall have the costs of this application, which is hereby assessed at Kshs. 50,000/- only.
- iv. This file is closed.

17. It is so ordered.

**DATED, SIGNED, AND DELIVERED AT NAIROBI**

**THIS 19<sup>TH</sup> DAY OF MARCH 2026**



**HON. JUSTICE MOSES ADO**

*Judge of the High Court*

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