

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(MILIMANI LAW COURTS)

MISCELLANEOUS CIVIL APPLICATION NO. E1064 OF 2024

MUGO GITHINJI & CO.

ADVOCATES.....ADVOCATE/APPLICANT

VERSUS

UMMOINNER SACCO SOCIETY

LIMITED.....RESPONDENT

RULING

Introduction

1. Before this Court is the Advocate/Applicant's Notice of Motion dated 19th June 2025, brought under Sections 1A, 1B, and 3A of the Civil Procedure Act, Section 51(2) of the Advocates Act, and Order 51 Rule 1 of the Civil Procedure Rules.
2. The Applicant seeks an order that judgment be entered in its favour against the Respondent for Kshs. 287,886/=, being the taxed costs as per the Certificate of Taxation issued on 29th May 2025, together with costs of the application.
3. The application is supported by the affidavit of Mugo Githinji, Advocate, sworn on 19th June 2025. The Applicant depones

that an Advocate-Client Bill of Costs dated 5th December 2024 was taxed on 5th May 2025 in the sum of Kshs. 287,886/=, and a Certificate of Taxation duly issued on 29th May 2025.

4. It is further deponed that the Respondent has failed and/or refused to pay the taxed costs despite demand, and that no reference, review, or appeal has been filed challenging the taxation or the Certificate of Taxation.
5. The Applicant submitted that under Section 51(2) of the Advocates Act, the Certificate of Taxation is final as to the amount of costs, and the Court is empowered to enter judgment where the retainer is not disputed and no reference is pending.
6. The Respondent did not enter appearance and did not file any replying affidavit or submissions in opposition to the application, despite service.

Analysis and Determination

7. From the application and the supporting affidavit, the sole issue for determination is whether the Court should enter judgment in favour of the Applicant on the basis of the Certificate of Taxation dated 29th May 2025.
8. The law governing entry of judgment on a taxed bill is 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 an order that judgment be entered for the sum certified to be due.”

9. The legal position emerging from this provision is settled. Once a Certificate of Taxation has been issued and has not been set aside or varied, the Court may enter judgment for the amount certified, provided the retainer is not disputed.
10. The Court of Appeal in **Lubulellah & Associates Advocates v N K Brothers Limited [2014] eKLR** affirmed that where the retainer is not disputed, and the certificate of taxation has not been set aside, the Court is entitled to enter judgment for the sum certified. The Court clarified that:

“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for the recovery of costs. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter

judgment in favour of the Applicant against the Respondent herein for the taxed sum indicated in the Certificate of Taxation.”

11. In the present matter, a Certificate of Taxation dated 12th February 2021 exists confirming the amount due as Kshs. 94,213/=. There is no evidence that the certificate has been set aside or varied. The Respondent has not challenged the retainer nor opposed the application.
12. From the material placed before the Court, it is not in dispute that the Applicant’s Bill of Costs was duly taxed and that a Certificate of Taxation for Kshs. 287,886/= was issued on 29th May 2025.
13. There is no evidence that the Respondent has filed a reference or any other proceedings challenging the taxation. There is equally no dispute raised as to the existence of the advocate-client relationship.
14. In the absence of a reference or any challenge to the Certificate of Taxation, this Court’s role is limited. The law is settled that where a certificate of costs has not been set aside or altered, the Court is entitled, and indeed enjoined, to enter judgment in the sum certified.
15. The Respondent, having failed to oppose the application or to challenge the taxation, cannot be heard at this stage to resist enforcement of a lawful certificate. The

Applicant should not be denied the fruits of a taxation that has lawfully culminated in a certificate of costs.

16. In the premises, the Notice of Motion dated 19th June 2025 is merited and is allowed in the following terms:

- i. Judgment is hereby entered in favour of the Advocate/Applicant against the Respondent for the sum of Kenya Shillings Two Hundred and Eighty-Seven Thousand, Eight Hundred and Eighty-Six (Kshs. 287,886/=), being the taxed costs as per the Certificate of Taxation issued on 29th May 2025.
- ii. The Applicant shall have costs of this application, which is hereby assessed at Kshs. 50,000/-

17. It is so ordered.

**DATED, SIGNED, AND DELIVERED AT NAIROBI
THIS 17TH DAY OF APRIL 2026**



HON. MR. JUSTICE MOSES ADO
Judge of the High Court

In the presence of: -

C/A - Moses

Ms. Karuim..... for the Applicant

N/A..... for the Client/Respondents

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