

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT GARISSA
CIVIL APPEAL NO. 1BB OF 2022

DANIEL **MUIA**
MULINGE.....APPELLANT/RESPONDENT

VS

GRACE
KARAMBU.....RESPONDENT/APPLICANT

RULING

1. The matter for determination is a Notice of Motion dated 17.12.2025 seeking orders that:
 - i. The Certificate of Taxation dated 25.11.2025 be and is hereby adopted as an order of the court and judgment be entered in favour of the Applicant for Kshs. 159, 600/-.**
 - ii. Costs of this application be awarded to the Respondent/Applicant.**

2. The application was supported by the affidavit of Grace Karambu wherein it was deponed that vide a judgment dated 25.11.2024, this Honourable Court dismissed the subject appeal with costs to the Respondent/Applicant. That vide a ruling delivered on 03.10.2025, the Hon. DR taxed the Respondent/Applicant's party and Party Bill of Costs at Kshs. 159,600/-. A Certificate of Costs dated 25.11.2025 was subsequently issued and a demand for payment made but disregarded. This court was thus urged to allow the prayers sought.

3. Having considered the application and the supporting affidavit the issues framed for determination are;

- i. **Whether the application is merited for the court to adopt the Certificate of Taxation and enter judgment in the sum of Kshs. 155,600/- and;**
- ii. **Costs.**

4. **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 recovered thereby; and the court may make such orders in relation thereto as it thinks fit, including where the retainer is not disputed an order that judgment be entered for the sum of certified to be due with costs.”

5. In determining whether the court should adopt the amount on the Certificate of Taxation as the judgment of the court it should be satisfied that the Certificate of Taxation has not been set aside. In the case of **Lubulellah & Associates Advocates vs N. K. Brothers Limited (2014) eKLR** the Court observed 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 that was issued on 25th November 2012.”

6. Upon careful consideration of the court record, this Court is satisfied that the ruling remains unchallenged. The Respondent has neither filed a reference against the ruling, nor has the ruling been set aside, varied, altered, or reviewed. Furthermore, no appeal has been lodged against the said ruling.

7. For the forgoing reasons this court makes the following determinations: -

- i. The Certificate of Taxation issued on 03.10.2025 in the sum of Kshs. 155,600/- is hereby adopted as a Judgment of this court in favour of the Applicant.**
- ii. Costs and interests of the application to the Applicant.**

Dated, signed and delivered virtually this **16th** day of **April 2026**

.....

J.N.ONYIEGO

JUDGE