



P. D. Onyango & Co. Advocates v Ogutu (Environment and Land Miscellaneous Application E016 of 2023) [2026] KEELC 2735 (KLR) (7 May 2026) (Ruling)

Neutral citation: [2026] KEELC 2735 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E016 OF 2023**

E ASATI, J

MAY 7, 2026

**IN THE MATTER OF AN APPLICATION TO TAX AN ADVOCATE'S
BILL OF COSTS ON THE BASIS OF ADVOCATE-CLIENT BILL OF COSTS**

BETWEEN

P. D. ONYANGO & CO. ADVOCATES APPLICANT

AND

ROSE AWINDA OGUTU RESPONDENT

RULING

1. The Notice of Motion dated 11th September, 2025, brought by the Applicant/Advocate, seeks orders that;
 - a. The certificate of costs issued to the Applicant on 15th February, 2024, as against the Respondent, be converted into a judgment and decree of this court, and consequently, a judgment be entered for the Applicant against the Respondent for the sum of Kenya Shillings three hundred and forty-seven thousand, five hundred and fifty only (Kshs. 347,550/-).
 - b. Interest does accrue on the sum of Kshs. 347,550/- at the rate of 14% per annum with effect from 10th November, 2023, until payment shall be made in full as prescribed in paragraph 7 of the Advocates Remuneration Order.
 - c. Costs of the application be awarded to the Advocate/Applicant.
2. The application was expressed to be brought pursuant to the provisions of section 51(2) of the Advocates Act, Chapter 16, Rule 7 of the Advocates Remuneration Order, section 26 of the Civil Procedure Act, and Order 50 Rule 1 of the Civil Procedure Rules. It was based on the grounds that the Advocate-Client Bill of Costs was taxed on 5th September, 2024, in the sum of Kshs. 347,550, and a certificate of costs has been issued for the same. That the Reference filed against the taxation has since



been dismissed. That the certificate of costs has not been altered or set aside by the court, and that the Respondent is not ready to satisfy the costs. That it is in the interest of justice that the prayers sought be granted.

The application was supported by the averment in the Supporting Affidavit of Peter Onyango Daniel, Advocate, sworn on 12th September, 2025.

3. The application was opposed vide the grounds of opposition dated 5th March, 2026, filed on behalf of the Respondent. The Respondent's case is that the Applicant/Advocate has not demonstrated compliance with the mandatory provisions of the law governing conversion of a certificate of taxation into a judgment under Section 51(2) of the *Advocates Act*, including proof that there is no dispute as to retainer. That the existence, scope, and validity of the retainer between the Advocate and the Respondent is disputed, thereby disentitling the Advocate from entry of judgment as a matter of course.

That the application is procedurally defective and incurably bad in law for failure to adhere to the requirements governing enforcement of taxed costs, including proper notice and justification for execution. That the claim for interest at the rate of 14% per annum is unfounded, excessive, and not supported by evidence of compliance with Rule 7 of the Advocate Remuneration Order, as it was not awarded by the Taxing Master. That the application seeks to unjustifiably enrich the Advocate at the expense of the Respondent and is contrary to the principles of fairness, equity, and justice. That the Advocate/Applicant has not established any sufficient cause to warrant the exercise of this honourable court's discretion in his favour.

That the application is frivolous, vexatious, and lacks merit, and is intended to unjustly subject the respondent to execution proceedings without due process. That the application ought to be dismissed to allow proper ventilation of the dispute through the appropriate legal mechanism, including negotiation and mediation.

4. The application was argued orally on 18th March, 2026. It was submitted on behalf of the Applicant that the Reference filed against the taxation was dismissed on 8th May, 2025, and that since then, the Respondent had declined to settle the costs. That the grounds of opposition do not challenge the taxation.

That the proposal that the matter be referred to mediation is an afterthought, and that Alternative Dispute Resolution is not applicable, as there is no dispute herein on the amount payable since it has been taxed by the court.

That interest on the taxed amount applies, and that there is no provision for the advocate to apply for interest when filing a Bill of Costs.

5. On behalf of the Respondent, it was submitted that interest should apply from the date the Reference was dismissed. That the Advocate did not seek interest in the Bill of Costs and that the Taxing Master did not award the same.

That it is only after the certificate of taxation has been converted into a judgment that interest can apply at court rates.

That the application is premature as the Respondent has shown an indication to go to Alternative Dispute Resolution (ADR) because the Respondent is a retiree and is out of the country. Counsel urged the court to dismiss the application so that the parties can engage in Alternative Dispute Resolution.



6. I have considered the application and the grounds raised in opposition thereto. I have also considered the oral submissions by Counsel.

The application is brought pursuant to, inter alia, the provisions of Section 51(2) of the Advocates Act, Chapter 16 Laws of Kenya, and Rule 7 of the Advocate Remuneration Order and Section 26 of the Civil Procedure Act. Section 26 of the Civil Procedure Act provides for the award of interest where a decree is for payment of money as follows:-

- (1) where and in so far as a decree is for payment of money, the court may, in the decree, order interests at such rates as the court deems reasonable to be paid on the principal sum adjudged from the date of the suit to the date of the decree in addition to any interest adjudged on such principal sum for any period before the institution of the suit, with further interest at such rate as the court deems reasonable on the aggregate sum so adjudged from the date of the decree to the date of payment or to such earlier date as the court thinks fit.
- (2) where such a decree is silent with respect to the payment of further interest, on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the court shall be deemed to have ordered interest at 6 per cent per annum.”

Clearly, this provision allows the court to award interest to be paid on the principal sum in a decree. The provision also gives the court the discretion to determine the date from which the interest falls due.

Section 51(2) of the Advocates Act, Cap 16, Laws of Kenya 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 to the amount of 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 judgement be entered for the sum certified to be due with costs.”

And Rule 7 of the Advocates Remuneration Order provides for charging of interest as follows:-

An Advocate may charge interest at 14 per cent per annum on his disbursement and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim of interest is raised before the amount of the bill shall have been paid or tendered in full.”

In the present case, there is no dispute that the Applicant’s bill of costs was taxed and certified vide certificate of costs dated 15th February, 2024, and that a reference challenging the taxation was dismissed.

There is also no dispute that the certificate of costs has not been varied or altered and that the same remains unsettled.

The court notes that since the Reference was dismissed on 8th May, 2025, no step has been taken by the Respondent in respect of the certificate of costs either to settle it or challenge it in any other way.

In view of the provisions of law cited and given the facts of the case, I find that the application has merit.

From the provisions of Rule 7 of the Advocates Remuneration Order, interest on the claimed amount becomes applicable with effect one month from the date the Bill of Costs was forwarded to the Respondent. But in the present case, given that the Bill was not settled and had to go through the process of taxation and certification, and given that the date the bill of



costs was forwarded to the Respondent is not disclosed in the application, I find that interest is due at 14% being the court rates, on the taxed costs from the date of the certificate of costs till payment in full.

The result is that the application is allowed as follows;

- i. The certificate of costs issued to the Applicant on 15th February, 2024, as against the Respondent, is hereby converted into a judgment and decree of this court, and judgment is entered for the Applicant against the Respondent for the sum of Kenya Shillings three hundred and forty-seven thousand, five hundred and fifty only (Kshs. 347,550/-).
- ii. Interest accrues on the sum of Kshs. 347,550/- at the rate of 14% per annum with effect from 15th February 2024, until payment in full and final settlement.
- iii. Costs of this application are awarded to the Applicant/Advocate.

Orders accordingly.

RULING DATED AND SIGNED AT KISUMU, READ THIS 7TH DAY OF MAY, 2026, VIRTUALLY THROUGH MICROSOFT TEAMS ONLINE APPLICATION.

E. ASATI,

JUDGE.

In the presence of:

Atika...: Court Assistant.

Bagada for the Applicant.

Ombwayo for the Respondent.

