



**Mereka & Company Advocates v Nicola Farms Limited (Environment and Land Miscellaneous Application E065 of 2023) [2025] KEELC 5365 (KLR) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5365 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E065 OF 2023**

**JG KEMEI, J  
JULY 17, 2025**

**BETWEEN**

**MEREKA & COMPANY ADVOCATES ..... ADVOCATE**

**AND**

**NICOLA FARMS LIMITED ..... CLIENT**

**RULING**

(In respect of the Advocate's Applicate dated 13/05/2024)

1. In this matter, the Advocate's Bill of Costs dated 16/02/2023 was taxed on the 6/03/2024 and the Certificate of Taxation dated 6/03/2024 issued on 6/05/2024.
2. The application before me is the Advocate's application dated 13/05/2024 seeking entry of judgement for the taxed costs of Kshs 406, 997.34 /=. The Applicant also prays for interest at the rate of 14% per annum from the date of issue of certificate until payment in full. The Applicant also prays for costs of the application.
3. The application is premised on the grounds on the face of it and supported by the Advocate's Affidavit, one David Mukii Mereka sworn on 13/05/2024. He deposes that the Advocate's Bill of Costs was taxed at a sum of Kshs 406,997.34/=. That the Respondent has not filed a Reference to the Taxation and it is only just fair and reasonable that Judgment be entered in terms of the Certificate of Taxation dated 6/03/2024. He prays that the application be allowed as prayed.

**Grounds of Opposition**

4. The Client filed Grounds of Opposition dated 10/12/2024 in response to both the Advocate-Client Bill of Costs dated 16/02/2023 as well as the instant Applicant. With respect to the instant application, the Client contends that it never instructed the Advocate to act for it in Nairobi ELC 66/2019. It therefore sought that the application be dismissed with costs.



## Court's Directions

5. The Court directed that the application be canvassed by way of written submissions. The Advocate/Applicant complied. The Advocate/Applicant filed submissions dated 5/11/2024. The Client/Respondent did not file any response despite being served with the Court's direction. The Court has had occasion to read through the submissions by parties and considered them in its determination.

## Analysis and Determination

6. Having perused the Notice of Motion application dated 13/05/2024 together with the supporting affidavit and the written submissions filed by Advocate/ Applicant, I am of the view that the only issue for determination is whether the Court should enter judgment in favour of the Advocate/Applicant as prayed.
7. It is clear that the Advocate bill of costs dated 16/02/2023 was taxed on 6/03/2024 and allowed as against the Respondent in the sum of Kshs 406,997.34/=. A certificate of taxation was subsequently issued on 6/05/2024.
8. The taxation of the Advocate's bill of costs has not been challenged by the Client in accordance with the provisions of Rule 11 of the Advocates Remuneration Order which provides that:

“Where a party is aggrieved by the decision of a Taxing Master, he is required to object in writing by requesting the Taxing Master to give reasons for the items of taxation that he is objecting to and thereafter file reference before a Judge.”
9. Section 51 of the *Advocates Act* provides:
  - “(1) Every application for an order for the taxation of an advocate's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an advocate shall be made in the matter of that advocate.
  - “(2) 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.”
10. It appears from the section that whereas sub section (1) refers to applications for an order of taxation of advocate's bill and therefore determination of the advocates costs, subsection (2) is clear that the certificate of costs once issued by the Taxing officer is final unless set a side or altered by the Court. The Court may also make an order that judgment be entered in terms of the amount in the certificate of costs.
11. In the case of *Lubulellah & Associates Advocates v N. K. Brothers Limited* [2015] 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”.



12. The Client/Respondent did not file a reference to challenge the ruling of the Taxing Master, that being the case, the Court enters judgement for the Applicant against the Respondent for the sum of Kshs 406, 997.34/=.
13. On the aspect of interest, this Court will be guided by the Court of Appeal decision in *Otieno, Ragot & Company Advocates v Kenya Airports Authority* (2021) eKLR. The Court of Appeal while considering an appeal from the decision of the High Court held that: -

“As such, the rule (rule 7) deals with interest chargeable by an advocate in respect of its claim for disbursements and costs following submission of a fee note. It is patently clear from the rule that interest begins to accrue from the expiry of one month from the date of delivery of the bill or fee note. The learned judge’s reasoning that the rule does not specify the date from which time begins to run was therefore a misdirection”.
14. The Court went further to consider the claim of interest after taxation of an Advocate -client bill of costs and held that: -

“Additionally, it is distinctive that a review of the Applicant’s Bill of Costs does not disclose that the Applicant included a charge for “interest at 14% per annum on his (her) disbursements and costs...” in the Bill of Costs. As the sole basis upon which computations of amounts due to an Applicant are determined by the taxing officer, the element of interest defined by rule 7 ought to have been included in the Bill of Costs, but it was not. This omission would thereby negate the application of rule 7, and instead render the bill liable to an exercise by the Court of its discretion under section 26 of the Civil Procedure”.
15. I have perused the Bill of Costs that was drawn, filed and presented by the Applicant herein. The Applicant did not include a charge for interest at 14% per annum in the bill of costs. Accordingly, guided by the above cited binding authority, Rule 7 cannot therefore apply in this case. I am only then left with the provisions of section 26 Of the *Civil Procedure Act*.
16. Exercising this Court’s discretion under Section 26 of the *civil procedure Act*, I will instead award the Applicant interest at the rate of 14% per annum from the 13/05/2024 (being the date when the Applicant first served the Respondent with the instant application attaching the Certificate of Taxation as confirmed by the Return of Service filed on 21/05/2024) until payment in full.
17. The Advocate/Applicant shall also have the costs of this Application.
18. Final Orders for Disposal
  - a. The application is allowed.
  - b. Interest allowed at 14% from 13/5/2024 until payment in full.
  - c. The applicant shall have costs of the application.
19. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 17<sup>TH</sup> DAY OF JULY, 2025  
VIA MICROSOFT TEAMS.**

**J G KEMEI**

**JUDGE**

Delivered Online in the Presence of;



Ms. Mwangi for the Applicant

Ms. Musumba HB for Wakil for the Respondent

CA – Ms. Yvette

