



Njenga Mwaura & Co Advocates v Urithi Housing Co-operative Limited (Miscellaneous Application E117 of 2022) [2024] KEELC 1679 (KLR) (19 March 2024) (Ruling)

Neutral citation: [2024] KEELC 1679 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
MISCELLANEOUS APPLICATION E117 OF 2022
MD MWANGI, J
MARCH 19, 2024**

BETWEEN

NJENGA MWAURA & CO ADVOCATES ADVOCATE

AND

URITHI HOUSING CO-OPERATIVE LIMITED CLIENT

RULING

Background

1. The application before me is the Advocate’s Notice of Motion application dated 22nd January, 2024 seeking entry of judgement for the taxed costs of Kshs. 117,377.20/= in accordance with the certificate of taxation issued on 8th November 2023 after the taxation of the Advocate – Client bill of costs.
2. The application is premised on the grounds on the face of it and supported by the Affidavit of one Robert Njenga Mwaura sworn on 22nd January, 2024. The deponent has attached a copy of the certificate of taxation confirming the taxation of the Advocate-client costs at Kshs. 117,377.20/=.
3. Though the application was duly served on the Respondent and an affidavit of service filed, the Respondent did not file a response to the said application.

Issues for Determination

4. Having perused the Notice of Motion application dated 22nd January, 2024 together with the supporting affidavit thereof, 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.



Determination

5. Section 51 of the *Advocates Act* provides that:

- “(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.”

6. It is clear from the subsection (2) that the certificate of costs once issued by the Taxing officer is final unless set a side or altered by the court.

7. 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.”

8. That being the case herein, the court enters judgement for the Applicant against the Respondent for the sum of Kshs. 117,377.20/=. This figure shall attract interest at court rates from the date of this ruling until payment in full.

9. The Advocate/Applicant shall also have the costs of this Application as prayed for.

10. Consequently, judgement is entered in favour of the Advocate/Applicant against the Respondent for the sum of Kshs. 117,377.20/= with interest from the date of this ruling until payment in full. The Advocate/Applicant shall also have the costs of this application.

It is so ordered.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 19TH DAY OF MARCH, 2024.

M.D. MWANGI

JUDGE

In the virtual presence of:

N/A by the Parties

Court Assistant: Yvette

M.D. MWANGI

JUDGE

