



**Miller & Company Advocates v County Government of Tana River (Environment & Land Miscellaneous Case E3 of 2020) [2024] KEELC 1257 (KLR) (7 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1257 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIRONMENT & LAND MISCELLANEOUS CASE E3 OF 2020  
FM NJOROGE, J  
MARCH 7, 2024**

**BETWEEN**

**MILLER & COMPANY ADVOCATES ..... APPLICANT**

**AND**

**COUNTY GOVERNMENT OF TANA RIVER ..... RESPONDENT**

**RULING**

1. The notice of motion application dated 25<sup>th</sup> May 2021 has been brought under Section 51 (2) of the *Advocates Act*, Order 51 rule 1 of the *Civil Procedure Rules*, Section 3A, 3B and 95 of the *Civil Procedure Act*. The Applicant seeks orders that judgment be entered against the Respondent for the sum of Kshs. 3,578,936.25 in terms of the certificate of costs dated April 14, 2021.
2. The application is premised on the grounds on its face and is supported by an affidavit sworn on May 25, 2021 by Anne Kaguri, an Advocate of the High Court of Kenya practicing as such with the firm of Miller & Company Advocates.
3. On January 15, 2024, Ms. Ringo appearing on behalf of Mr. Bwire counsel for the Respondent informed the court that the Respondent had filed grounds of opposition to the notice of motion. I have however thoroughly perused the pleadings before this court, and I have found no such document. The only grounds of opposition on record are those in relation to the advocate-client bill of costs dated November 11, 2020.
4. According to the court record the bill of costs dated November 11, 2020 was taxed on April 14, 2021, at Kshs. 3,578,936.25. Subsequently, a Certificate of Costs was issued on the same date. It is not in dispute that the said decision by the Taxing Officer has not been set aside and/or altered, neither is



there a reference that has been filed by the respondent herein against the said decision. In *Lubulellah & Associates Advocates v N. K. Brothers Limited* [2014] eKLR the Court held as follows: -

“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 November 25, 2012.”

5. In such a case, judgment is ordinarily entered in the sum in the Certificate of Costs upon application by the advocate. Suffice to say that such an application may be commenced by way of a Notice of Motion like in the present case.
6. Given that no reference has been filed and that the certificate of Costs has not been set aside, it is my finding that the application dated May 25, 2021 is merited and the applicant is entitled to the costs as per the Certificate of Costs.
7. The upshot is that judgment is hereby entered in favour of the applicant as against the respondent in the sum of Kshs. 3,578,936.25 as per the Certificate of Costs dated April 14, 2021. The Applicant shall bear the costs of this application as prayed in the motion.

**DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 7<sup>TH</sup> DAY OF MARCH 2024.**

**MWANGI NJOROGE**

**JUDGE, ELC, MALINDI**

