



Mwirigi Kaburu & Co Advocates v County Government of Meru (Miscellaneous Application E054 of 2023) [2024] KEELC 5048 (KLR) (26 June 2024) (Judgment)

Neutral citation: [2024] KEELC 5048 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
MISCELLANEOUS APPLICATION E054 OF 2023**

**CK NZILI, J
JUNE 26, 2024**

BETWEEN
MWIRIGI KABURU & CO ADVOCATES APPLICANT
AND
COUNTY GOVERNMENT OF MERU RESPONDENT

JUDGMENT

1. Section 51 (2) of the *Advocates Act* grants this court power to enter judgment based on a certificate of costs where it has not been set aside, a reference is not in place, and or has become final as to the award of the costs covered thereby and the retainer is not disputed under Rule 11 of the *Advocates Remuneration Order*.
2. In *Owino Okeyo & Company Advocates v Fuelex Kenya Ltd* [2005] eKLR, the court held that a judgment may be entered provided the client is not disputing the fact of the retainer in the first instance.
3. In Misc. No. E016 of 2024, this court has dismissed the reference made against the taxing master scaling for lack of merits. This dismissal has confirmed the certificate dated 4.4.2024 as final as to costs.
4. The applicant urges this court by an application dated 4.4.2024, to enter judgment in the sum of Kshs.82,176,731/= against the respondent. Reliance was placed on written submissions dated 16.5.2024 based on *Guchuki Kingara & Co. Advocates v Mugoya Constructions & Engineering Ltd* [2015] eKLR, *Macharia Njeru advocate v CCK HCCC* No. 1029 of 2002 as cited in *Kagwimi Kagethe & Co. Advocates v Penelope Combos and another* [2014] eKLR, *Kinjuga v Kangaru* Misc. App No. E001 OF 2022 (2023 KEELC 246 (KLR) 26) January 2023 (Ruling)
5. The respondent is opposed to the application. He relied on a written submission dated 16.5.2024, given that a reference is pending as Misc. HC E054 of 2023. It is submitted that the reference is properly before the court. Reliance is placed on *KCB Bank Ltd v Yeswa Antonny Joseph* [2022] eKLR, *Kipkorir*



Titoo & Kiara Advocates v Deposit Protection Funds Board [2005] eKLR and *Ahmednassir Abdikadir & Co. Advocates, Twiga Motors Ltd v Hon. Dalmas Otieno Onyango* [2015] eKLR.

6. In my considered view, the applicant has met the consideration set in *Gichuki Kingara & Company Advocates v Mugoya Constructions* (supra). There is a certificate of taxation that has not been set aside, attested, or reviewed by this court. The respondent admitted that a retainer existed between it and the applicant. The disputes raised in the reference made in Misc. No. E054 of 2024 was with respect to the taxing master that the figure is colossal and or excessive. There was no miscarriage of justice by the respondent filing a reference with the reasons for the figure in item numbers (1) and (2) of the bill. The decision by the taxing master was conclusive as regards the decision. There is, therefore no need to seek for more reason. The reference was filed on 28.3.2024. Even though leave was not sought and received to extend time or deem the reference as filed on time. I see no prejudice which was occasioned by the appellant since the certificate of taxation was also issued on 4.4.2024.
7. The upshot is that I allow the application with costs. Interest for the same shall run from the date of entry of the judgment. The applicant is at liberty to execute the decree in compliance with the law.

Orders accordingly.

**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU
ON THIS 26TH DAY OF JUNE, 2024**

In presence of

C.A Kananu/Mukami

Mwirigi for plaintiff

Kaumbi for defendants

HON. C K NZILI

JUDGE

