



Konosi t/a Konosi & Co Advocates v Musimoto Motor Company Ltd (Miscellaneous Application E002 of 2023) [2024] KEELRC 522 (KLR) (7 March 2024) (Ruling)

Neutral citation: [2024] KEELRC 522 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
MISCELLANEOUS APPLICATION E002 OF 2023**

DN NDERITU, J

MARCH 7, 2024

BETWEEN

WILFRED N KONOSI T/A KONOSI & CO ADVOCATES APPLICANT

AND

MUSIMOTO MOTOR COMPANY LTD RESPONDENT

RULING

1. In a notice of motion dated 20th November, 2023 (the application) the applicant, an advocate of the High Court, is seeking the following orders –
 1. Spent
 2. That the Court be pleased to enter judgment for the applicant against the respondent in the sum of Kshs 252,918.40 certified in certificate of costs dated 14th November, 2023 together with interest at 14% from 24th July, 2022 until payment in full.
 3. That a decree be issued in respect of the certificate of costs dated 14th November 2023 and issued on 20th November, 2023 and that the Applicant be at liberty to execute for recovery of the same in such a manner as a Decree of this Honourable Court.
 4. That the costs of this application be borne by the Respondent.
2. The application is expressed to be brought under section 51(2) of the *Advocates Act*, section 27(2) of the *Civil Procedure Act* and order 51 rule 1 of the *Civil Procedure Rules*, and based on the grounds on the face of it.
3. The application is supported with the affidavit of Lilian Trufosa Ekesa, Advocate, sworn on even date with several annexures thereto.



4. The application follows taxation of advocate/client bill of costs dated 19th January, 2023 wherein the applicant's costs against the respondent/client for legal services rendered were by consent of counsel for both parties assessed at Kshs 252,918.40 on 14th November, 2023, and a certificate of costs issued on 20th November, 2023. The certificate of costs is exhibited as an annexure.
5. On 13th December, 2023 when the application came up in court for hearing Mr. Konosi appeared for the applicant and Mr. Oira appeared for the respondent. The respondent was granted 14 days to respond to the application but none was filed.
6. As noted above, the bill of costs was taxed by consent in the sum of Kshs 252,918.40. No appeal or reference has been filed against the said taxation. The applicant has exhibited several letters demanding the respondent to settle the amount but no payments have been made or any other action taken or proposal(s) made by the respondent in settlement of the same.
7. In the circumstances, there is no legal or any other reason as to why the applicant may be denied the fruits of the consent and the resultant taxation and the amount awarded.
8. The application is allowed as prayed.
9. However, the taxed amount of Kshs 252,918.40 shall attract interest at 14% from the date of taxation, 14th November, 2023, as that is the date when the same became due and payable.
10. The costs of the application are awarded to the applicant and hereby assessed at Kshs 15,000/=.

DELIVERED VIRTUALLY, DATED, AND SIGNED AT NAKURU THIS 7TH DAY OF MARCH, 2024.

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DAVID NDERITU
JUDGE

