



**Paul Mwangi & Co. Advocates v P.V.R Rao Receiver of Athi River Steel Plant Limited
(Miscellaneous Cause E218 of 2023) [2024] KEELRC 1431 (KLR) (11 June 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1431 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS CAUSE E218 OF 2023
NZIOKI WA MAKAU, J
JUNE 11, 2024**

BETWEEN

PAUL MWANGI & CO. ADVOCATES APPLICANT

AND

**P.V.R RAO RECEIVER OF ATHI RIVER STEEL PLANT
LIMITED RESPONDENT**

RULING

1. The Applicant vide its notice of motion application dated 24th October 2023 seeks for the following orders:-
 - a. That the judgment entered in favour of the Applicant against the Respondent herein for the sum of Kshs. 1,656,890.84 together with interest at court rates from 10th August 2023 till payment in full.
 - b. That the cost of this application be paid by the Respondent in any event.
2. The Application was premised on the grounds appearing on the face of the motion and was also supported by the affidavit of Mr. Paul Muriithi Mwangi together with the annexures thereto.
3. The Respondent had not filed a response by the time the matter was placed for directions on the manner of its disposal. Leave was granted to the Respondent to file a response in presence of counsel for the Respondent Mr. Kamara. The Court as at the time of penning the Ruling had neither seen a response nor submissions by the Respondent.
4. The Applicant submitted that the only issue for the Court to determine is whether the application is merited. The Applicant submitted that a certificate of taxation was issued to the Applicant after taxation of Client-Advocate Bills of costs on various matters. It was submitted that the total for the 8 matters was a sum of Kshs. 1,656,890.84 which ought to be put into effect through the entry of



judgment as prayed in the motion. It was submitted that section 51(2) of the *Advocates Act* makes provision that the certificate of taxation issued by the taxing officer is final as to the amount of costs covered thereby unless set aside or altered by the Court. The Applicant submitted that there is no dispute as to the retainer of the Applicant and that as such, the Court can enter judgment on the sum as prayed for in the notice of motion. The Applicant cited the case of *Mbai & Kibuthu v Mbo-I-Kamiti Farmers Company Limited [2006]* eKLR where the Court allowed a similar application on the basis that the taxation had not been contested nor a certificate challenged. It was urged that the application should be allowed as prayed.

5. The *Advocates Act* makes provision under section 51(2) as follows:-

(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. [Emphasis supplied]

6. The Applicant gave professional services to the Respondent from all accounts and subsequently, fees were raised and taxation ensued leading to various sums being awarded in Misc. Cause E055 of 2023 – Kshs. 224,132.32, Misc. Cause No. E060 of 2023 – Kshs. 213,984.60, Misc. Cause No. E061 of 2023 – 138,713/-, Misc. Cause No. E062 of 2023 – Kshs. 153,860/-, Misc. Cause No. E063 of 2023 – Kshs. 176,234.50, Misc. Cause No. E064 of 2023 – Kshs. 245,630/-, Misc. Cause No. E065 of 2023 – Kshs. 333,509.42 and Misc. Cause No. E066 of 2023 – Kshs. 170,737/-. Having not seen any reversal by a Judge of the sums duly taxed, there is nothing to bar the Court from granting the notice of motion as drawn by the Applicant. The sums due on the 8 matters referenced herein should be payable as an order of the Court. I therefore enter judgment for the Applicant against the Respondent for the sum of Kshs. 1,656,890.84 with interest at court rates from 10th August 2023 till payment in full. The Applicant will also have the costs of the motion before me which I assess at Kshs. 75,000/-.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 11TH DAY OF JUNE 2024

NZIOKI WA MAKAU

JUDGE

