



**Kikwai Jona t/a Mwakip Kirwa Co Advocates v Rural Development Solutions Ltd
(Miscellaneous Case E012 of 2021) [2022] KEELRC 1755 (KLR) (20 May 2022) (Ruling)**

Neutral citation: [2022] KEELRC 1755 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
MISCELLANEOUS CASE E012 OF 2021**

NJ ABUODHA, J

MAY 20, 2022

BETWEEN

KIKWAI JONA T/A MWAKIP KIRWA CO ADVOCATES CLAIMANT

AND

RURAL DEVELOPMENT SOLUTIONS LTD RESPONDENT

RULING

1. The applicant in the Motion dated August 17, 2021 seeks orders that:
 - a. That Judgment be entered in favour of the applicant against the Respondents jointly and severally for the sum of Kenya Shillings Three Hundred and Fifty-Nine Thousand and Fifty-Eight (Ksh.359,058/-) being the certified costs due to the Applicant as against the Respondents.
 - b. That the respondents do pay to the applicant interest on the certified costs dated August 6, 2021 at 14% per annum from July 17, 2021 (being the 30th day from the date on which the bill of costs was served upon the respondent as provided at paragraphs 7 of the [Advocates Remuneration Order and Rules](#)) until payment in full.
 - c. That the respondents do pay to the applicant the costs of this application.
2. The application was supported by the affidavit of Kirwa Jonah Advocate who deponed among others that:
 - a. That I am an advocate of the High Court of practicing in the name and style of Mwakio, Kirwa & Company Advocates, Barng'etuny Plaza, 3RD Floor, Ronald Ngala Street P.O. Box 8450-30100 Eldoret.



- b. That Mwakio Kirwa & Co. Advocates filed the Advocates/Client bill of costs dated March 25, 2021 on June 17, 2021 and served the respondent for taxation on June 30, 2021 and July 14, 2021.
 - c. That the respondent chose not to participate in the taxation processes of the bill of costs.
 - d. That the ruling of the subject bill was scheduled for delivery on July 30, 2021 but the same was not ready. Court advised parties to attend court for a ruling on August 6, 2021 Service of notices was duly effected upon the respondent.
 - e. That the ruling was delivered on August 6, 2021 at Kenya shillings Three Hundred and Fifty-Nine Thousand and Fifty-Eight (Ksh.359,058/=).
 - f. That soon after the ruling the applicant informed the respondents to comply with the terms of the ruling in vain.
 - g. That certificate of costs was sent to the respondent on August 17, 2021 for compliance purposes in vain.
 - h. That the respondent only made a response on August 9, 2021 that their advocate Nyambega & Co. Advocates will respond to the demand in ours dated August 7, 2021. The said response has not been forthcoming to date.
 - i. That the award made in favour of the applicant of Kenya Shillings Three Hundred and Fifty-Nine Thousand and Fifty-Eight (Ksh.359,058/=) has never been appealed.
 - j. That the respondents have since refused, failed and/or neglected to settle the said sum.
 - k. That it is only fair that judgment be entered in favour of the applicant against the respondents jointly and severally with interest at fourteen (14%) per cent per annum with effect from July 17, 2021 being the 30th day from the date on which the bill of costs was served upon the respondent as provided at paragraphs 7 of the [Advocates Remuneration Order and Rules](#) until payment in full.
3. On September 23, 2021 the respondent appeared through Mose Nyambega Advocate who requested for more time to file a replying affidavit because his client responsible for signing the affidavit was out of the Country. The court acceded to the request and granted the respondent fourteen days to file the replying affidavit. From the record no such affidavit was filed.
 4. From the submissions, Counsel for the respondent has alleged that the respondent is no longer in existence having been dissolved by a gazette notice of 2019. No such gazette notice was produced in court. From the submissions by the respondent, it does seem to have any defense to the Motion save that the respondent ceased to exist. The respondent's counsel however failed to file any replying affidavit to vouch for this factual allegation.
 5. The court will in the circumstances allow the application as prayed together with costs.

It is so ordered.

DATED AND DELIVERED AT ELDORET THIS 20TH DAY OF MAY, 2022

ABUODHA NELSON JORUM

JUDGE ELRC

