



**Kitoo & Associates Advocates v Lavington Security Ltd (Cause E033 of 2022)
[2022] KEELRC 13239 (KLR) (17 November 2022) (Judgment)**

Neutral citation: [2022] KEELRC 13239 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE E033 OF 2022
AK NZEI, J
NOVEMBER 17, 2022**

BETWEEN

KITOO & ASSOCIATES ADVOCATES CLAIMANT

AND

LAVINGTON SECURITY LTD RESPONDENT

JUDGMENT

1. The suit herein was instituted by the Claimant vide a Memorandum of Claim dated 30th May 2022 and filed in this Court on 6th June 2022. The Claimant claims against the Respondent a sum of Ksh. 363, 377.30 being a taxed amount due and owing to the Claimant pursuant to Certificates of Taxation issued by this Court as follows:-
 - a. Msa ELRC Misc. App No. 14 of 2022 (Kitoo & Associates Advocates -vs- Lavington Security Limited)...ksh. 190,775.30
 - b. Msa ELRC Misc. Appl No. 13 of 2022 (Kitoo & Associates Advocates -vs- Lavington Security Limited)..... Ksh. 172,602Total Ksh. 363,377.30
2. The Claimant filed a witness statement of Mary Kitoo Advocate dated 30th May 2022 and a list of documents dated the same date, listing two certificates of costs dated 26th April 2022 and issued by this Court's Deputy Registrar in the aforesaid causes.
3. Despite having been served with summons and suit documents filed herein on 16th June 2022 and an affidavit of service in that regard filed in Court, the Respondent did not enter appearance, and did not file any response to the claim.
4. On 21st September 2022, I directed that the suit do proceed for hearing as an undefended claim, the Respondent having failed to file any pleadings despite having been served.



5. When the suit came up for hearing on 3rd November, 2022, Mary Kitoo Advocate, a partner in the Claimant Law Firm, testified. She adopted her filed witness statement as her testimony, and produced in evidence the documents referred to in paragraph 2 of this Judgment. The witness (CW-1) further testified that the Respondent had been their client for three years, and that the claimed sum of Kshs. 363,377.30 was made up of taxed Advocate's costs awarded to the Claimant against the Respondent. She prayed that judgment be entered as prayed in the Claimant's pleadings.
6. Section 51(2) of the *Advocates Act* provides as follows:-

“ the certificate of a 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 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.”
7. The taxing Officer's Certificates produced in this Court by the Claimant have not been shown to have been altered or set aside by this Court, and have not been shown to be the subject of any dispute.
8. Consequently, I enter judgment in favour of the Claimant against the Respondent for kshs. 363,377.30, being the Claimant Advocates' costs certified by the taxing Officer vide Certificates of Costs dated 26th April 2022 and issued in this Court's Misc. Application Nos. 13 of 2022 and 14 of 2022 respectively.
9. The Claimant is awarded costs of the suit and interest at Court rates. Interest shall be calculated from the date of this Ruling.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MOMBASA THIS 17TH DAY OF NOVEMBER 2022

AGNES KITIKU NZEI

JUDGE

Appearance:

Mr. Mugambi for Claimant

N/A for Respondent

