



**Njeru, Nyaga & Company Advocates LLP v Kukam Limited & Metra
Investments Limited (Miscellaneous Application E048 of 2022)
[2024] KEELC 13976 (KLR) (19 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 13976 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
MISCELLANEOUS APPLICATION E048 OF 2022
MD MWANGI, J
DECEMBER 19, 2024**

BETWEEN

NJERU, NYAGA & COMPANY ADVOCATES LLP APPLICANT

AND

KUKAM LIMITED & METRA INVESTMENTS LIMITED CLIENT

RULING

(In respect of the Advocate's Application dated 27th March, 2024)

Background

1. In this matter, the Advocate's Bill of Costs dated 22nd December, 2021 was taxed on the 24th July, 2023 in the sum of Kshs. 424,925/=.
2. The application then before me is the Advocate's application dated 27th March, 2024 seeking entry of judgement for the taxed costs of Kshs. 424,925/=. The Applicant further prays that the taxed costs to accrue an interest at the rate of 14% per annum from the date of taxation until payment in full. The Advocate also prays for costs of the application.
3. The application is premised on the grounds on the face of it and supported by the Advocate's Affidavit sworn on 27th March, 2024. He deposes that a certificate of taxation was issued on 15th February, 2024 after the taxation. He prays that the Certificate of Costs be adopted as a Judgment and Decree of the Court in accordance with the provisions of Section 51(2) of the *Advocates Act*.
4. Though the application was duly served on the Respondent and an affidavit of service filed, the Respondent did not file a response to the motion. The application is therefore unopposed.



Issues for Determination

5. Having perused the Notice of Motion application dated 27th March, 2024 together with the supporting affidavit, I am of the view that the only issue for determination is whether the court should enter judgment in favour of the Advocate/Applicant as prayed.

Analysis and Determination

6. It is clear that the Advocate bill of costs dated 22nd December, 2021 was taxed on the 24th July, 2023 and allowed as against the Respondent in the sum of Kshs. 424,925/=. A certificate of taxation was subsequently issued on 15th February, 2024.

7. The taxation of the Advocate's bill of costs has not been challenged by the Client in accordance with the provisions of Rule 11 of the Advocates Remuneration Order which provides that:

“Where a party is aggrieved by the decision of a Taxing Master, he is required to object in writing by requesting the Taxing Master to give reasons for the items of taxation that he is objecting to and thereafter file reference before a Judge.”

8. In the case of Lubulellah & Associates Advocates –vs- N. K. Brothers Limited [2015] eKLR, the court observed that;

“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment.”

9. Section 51 of the *Advocates Act* provides:

“(1) Every application for an order for the taxation of an advocate's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an advocate shall be made in the matter of that advocate.

(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.”

10. The Client/Respondent did not file a reference to challenge the ruling of the Taxing Master. That being the case, the court enters judgement for the Applicant against the Respondent for the sum of Kshs. 424,925/=.

11. On the aspect of interest, this court will be guided by the court of Appeal decision in Otieno, Ragot & Company Advocates Vs Kenya Airports Authority (2021) eKLR. The Court of Appeal while considering an appeal from the decision of the High Court held that: -

“As such, the rule (rule 7) deals with interest chargeable by an advocate in respect of its claim for disbursements and costs following submission of a fee note. It is patently clear from the rule that interest begins to accrue from the expiry of one month from the date of delivery



of the bill or fee note. The learned judge’s reasoning that the rule does not specify the date from which time begins to run was therefore a misdirection”.

12. The Court of Appeal went further to consider the claim of interest after taxation of an Advocate - Client bill of costs and held that: -

“Additionally, it is distinctive that a review of the applicant’s Bill of Costs does not disclose that the applicant included a charge for “interest at 14% per annum on his (her) disbursements and costs...” in the Bill of Costs. As the sole basis upon which computations of amounts due to an applicant are determined by the taxing officer, the element of interest defined by rule 7 ought to have been included in the Bill of Costs, but it was not. This omission would thereby negate the application of rule 7, and instead render the bill liable to an exercise by the court of its discretion under section 26 of the Civil Procedure”.

13. I have perused the Bill of Costs that was drawn, filed and presented by the Applicant herein. The Applicant did not include a charge for interest at 14% per annum on his disbursements and costs in the bill of costs. Accordingly, guided by the above cited binding authority, Rule 7 cannot therefore apply in this case. I am only then left with the provisions of section 26 of the Civil Procedure Act.
14. Exercising this court’s discretion under Section 26 of the civil procedure Act, I will award the Applicant interest at the rate of 14% per annum from 24th July, 2023 when the Bill was taxed until payment in full.
15. The Advocate/Applicant shall also have the costs of this Application.

It is so ordered.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 19TH DAY OF DECEMBER, 2024.

M.D. MWANGI

JUDGE.

In the virtual presence of:

Ms.Kirui for the Advocate/Applicant

N/A by the Respondent

Joan: Court Assistant

M.D. MWANGI

JUDGE.

