



**Kinyanjui Njuguna & Co. Advocates v Invesco Assurance Company Ltd (Commercial Case E249 of 2019) [2025] KEHC 627 (KLR) (Commercial and Tax) (31 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 627 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL CASE E249 OF 2019  
H NAMISI, J  
JANUARY 31, 2025**

**BETWEEN**

**KINYANJUI NJUGUNA & CO. ADVOCATES ..... APPLICANT**

**AND**

**INVESCO ASSURANCE COMPANY LTD ..... RESPONDENT**

**RULING**

1. By Notice of Motion dated 30 June 2023, the Applicant seeks the following orders:
  - i. That the Honourable Court be pleased to enter judgement in favour of the Applicant herein, in terms of Certificate of Taxation dated 4 February 2020, in the sum of Kenya Shillings Four Hundred and Ninety-Six Thousand, Four Hundred and Eight Six, Cents Seventy (Kshs 496,486.70);
  - ii. That pursuant to Prayer (i) above, the Honorable Court be pleased to enter judgment/decreed for Kshs 496,486.70 tabulated as hereunder;
  - iii. That interest be provided for at 14% per annum from 22 December 2017 until payment in full;
  - iv. That the cost of the Application be awarded to the Applicant
2. The Application is supported by the Affidavit sworn by Kinyanjui Theuri and premised on the following grounds:
  - i. That the Applicant's Bill of Costs in the above captioned matter has since been taxed;
  - ii. That pursuant to paragraph (i) herein Certificate of Taxation has since been drawn, signed and issued;



- iii. That the Respondent has continually neglected and/or failed to pay legal fees duly earned despite demand and notice by the Applicant;
  - iv. That the Respondent is facing a liquidity crisis and the recovery of funds is in jeopardy;
  - v. That the instant application is necessitated by the fact the financial liquidity of the Respondent is unknown vis-a-vis in question;
  - vi. That an Advocate is legally entitled to fees duly earned in the course of service in line with the [Advocates Remuneration Order](#);
  - vii. That the Respondent does not dispute the fees;
  - viii. That the instant application is made in the sole interest of justice and in due realization of legal fees earned by the Applicant;
  - ix. That if the court fails to grant the orders sought herein, the Applicant is likely to suffer gross prejudice as the financial liquidity of the Respondent is in question.
3. Parties were directed to file submissions. Despite being accorded an opportunity to do so, the Respondent did not file submissions herein.
4. The Application is brought under Section 51(2) of the [Advocates Act, Cap 26](#) and Rule 7 of the [Advocates Remuneration Order, 2009](#). Section 51 (2) provides as follows:
- Pursuant to the provisions of Section 2 of the [Advocates Act](#) –“Client’ includes any person who, as a principal or on behalf of another, or as a trustee or personal representative, or in any other capacity, has power, express or implied, to retain or employ an advocate and any person who is or may be liable to pay an advocate any costs.
5. In the case of [Musyoka & Wambua Advocates v Rustam Hira Advocate](#) (2006) eKLR it was held thus:
- “Section 51 of the Act makes general provisions as to taxation, as the marginal note indicates. One of those provisions is that the court has discretion to enter judgment on a Certificate of Taxation which has not been set aside or altered, where there is no dispute as to retainer. This in my view is a mode of recovery of taxed costs provided by law, in addition to filing of suit.....”
6. Having read the Application, Supporting Affidavit as well as the attached documents, I am of the considered view that the same is merited. The Application is allowed and I make the following orders:
- i. Judgement is hereby entered for the Applicant against the Respondent in terms of the Certificate of Costs dated 4 February 2020 for Kshs 496,486.70.
  - ii. Interest thereon is awarded at the rate of 14% per annum from 4 February 2020 until payment in full.
  - iii. The Applicant is awarded costs assessed at Kshs 30,000/=.

**DATED AND DELIVERED AT NAIROBI THIS 31 DAY OF JANUARY 2025**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:



Mr. Mabeya.....for the Applicant

N/A.....for the Respondent

Libertine Achieng .....Court Assistant

