



**SM Onyango Associates Advocate v Juma (Miscellaneous Civil Application
E024 of 2021) [2023] KEELC 616 (KLR) (19 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 616 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION E024 OF 2021**

E ASATI, J

JANUARY 19, 2023

BETWEEN

SM ONYANGO ASSOCIATES ADVOCATE APPLICANT

AND

FRANCIS OCHIENG JUMA RESPONDENT

RULING

1. This ruling is in respect of the notice of motion application dated April 1, 2022. It is an application brought pursuant to the provisions of section 51(2) of the [Advocates Act](#) cap 16 Laws of Kenya. The application seeks for orders that:
 - a. That this honourable court be pleased to convert the Certificate of Costs in the sum of Kshs.140,164/= only (Kenya shillings one hundred and forty thousand, one hundred and sixty-four only) taxed on 24th March 2022 into judgement.
 - b. That upon grant of prayer 1 above, interest do accrue on the taxed costs at 16% till payment in full.
 - c. That the costs of this application be awarded to the applicant.
2. The application is based on the grounds that the applicant's taxed costs remain unpaid to date, that the Certificate of Costs is yet to be set aside/reviewed and/or varied and that the application is made in good faith and in the interest of justice and in order to avoid a multiplicity of actions.
3. The application is supported by the averments in the supporting affidavit sworn by Stephanie Akinyi Advocate on April 1, 2022. Counsel deposed that since the costs were taxed the applicant gave the respondent the opportunity to pay the costs but that the respondent failed to seize the opportunity. A copy of the Certificate of Costs dated 30/3/2022 was annexed to the supporting affidavit and marked annexure SMO1.



4. The application proceeded ex parte because the respondent who was duly served did not respond to it or attend court for the hearing.

5. Section 51(2) pursuant to which the application was brought provides that

“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 judgement be entered for the sum certified to be due with costs.”

6. I have read the notice of motion supporting affidavit and annexures thereto. I have also read the court record generally and in particular, the ruling of the taxing Officer herein dated March 24, 2022 and the resultant certificate of costs. There being no opposition to the application, the certificate of costs having not been reviewed or altered and given that the retainer is not disputed, I find that the application is merited. I allow the application and hereby enter judgement in favour of the applicant on the basis of the certificate of costs dated March 30, 2022 for Kshs.140, 164/- interest thereon at court rates and costs of the application.

Orders accordingly.

RULING DATED AND SIGNED AT KISUMU, DELIVERED VIRTUALLY THIS 19TH DAY OF JANUARY, 2023 THROUGH MICROSOFT TEAMS VIDEO CONFERENCING PLATFORM.

E. ASATI

JUDGE.

In the presence of:

Maureen: Court Assistant.

No appearance for the Applicant/Advocate

No appearance for the Respondent/Client

E. ASATI

JUDGE.

