



Directline Assurance Company Limited v Ngoroi (Suing as the legal representative and administrator of the Estate of the Late Salesio Kinyua Nyaga) (Civil Appeal E103 of 2022) [2025] KEHC 1193 (KLR) (27 February 2025) (Ruling)

Neutral citation: [2025] KEHC 1193 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
CIVIL APPEAL E103 OF 2022
EM MURIITHI, J
FEBRUARY 27, 2025**

BETWEEN

DIRECTLINE ASSURANCE COMPANY LIMITED APPELLANT

AND

LUCY NJOKI NGOROI (SUING AS THE LEGAL REPRESENTATIVE AND ADMINISTRATOR OF THE ESTATE OF THE LATE SALESIO KINYUA NYAGA) RESPONDENT

RULING

1. The applicant filed this Notice of Motion dated 9th May, 2024 seeking the following orders:
 1. That this Honourable Court be pleased to enter Judgment in favour of the Respondent/Applicant for taxed costs of Kenya Shillings Thirty-Seven Thousand, Seven Hundred (Kshs. 37,700/=)
 2. That the Appellant be condemned to pay costs of this application.
2. The application is based on the grounds set out in the application that the Appellant-owes the Applicant Kshs. 37,700/= being taxed costs and the Appellant has failed to pay the taxed costs as per the Certificate of Costs despite being demanded to pay.
3. The applicant's case as set out in the Supporting Affidavit is that a Notice of Taxation dated 14th August, 2023 was served upon the Appellant on the 15th December, 2023 and the Bill of Costs dated 24th July, 2023 was taxed by the Deputy Registrar on 14th February, 2024 to the tune of Kshs. 37,700/= and subsequently issued a Certificate of Taxation dated 25th April, 2024 to this effect. That vide a Letter dated the 26th April, 2024 the Respondent demanded the taxed costs but to date the Appellant has not settled the same. That it is only just and mete that this honourable court do compel the appellant to



pay the Respondent the taxed costs by entering judgment for taxed costs as the Certificate of Costs has never been set aside and or stayed.

4. The application was opposed by the respondent by way of grounds of opposition dated 1st October 2024 where it was contended that the application is misconceived, untenable and bad in law and an abuse of the Court process as the prayers sought are untenable to be granted by this Court of law and should be dismissed with costs to the Respondent and that the taxed costs are in respect to a Party & Party Bill of Costs not enforceable in the manner sought by the Applicant.

Issue

5. The issue for determination is whether Judgment should be entered in favour of the Respondent/ Applicant for the taxed costs herein.

Analysis

6. The applicant's present application is predicated under Section 51 of the *Advocates Act*, Cap 16 Laws of Kenya. Section 51(2) of the *Advocates Act* provides as follows:

“51(2) The certificate of the taxing officer by whom any bills has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount 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 respondent objects that the taxed costs are in respect to a Party & Party Bill of Costs is not enforceable in the manner sought by the Applicant.
8. With respect, section 51(2) of the *advocates Act*, the provision of law cited by the applicant in seeking entry of judgment on the costs applies to Advocate-Client Costs as indicated by the reference to the retainer. In party and Party Costs, taxed costs may be enforced in the same way as the judgment in the matter as between the successful party and the party against whom the judgement is entered.
9. In the circumstances the request for entry of judgment on the costs taxed between party and party is redundant.

Orders

10. Accordingly, for the reasons set out above, the Court finds the application dated 9th May, 2024 is without merit and it is declined. Cost in the Cause.

Order accordingly.

DATED AND DELIVERED THIS 27TH DAY OF FEBRUARY, 2025.

EDWARD M. MURIITHI

JUDGE

Appearances:

Mr. Amimo for the Applicant.

Mr. Gitahi for the Respondent.

