



Onyinkwa & Company Advocates v Kendagor (Miscellaneous Application E073 of 2024) [2025] KEHC 2528 (KLR) (26 February 2025) (Ruling)

Neutral citation: [2025] KEHC 2528 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
MISCELLANEOUS APPLICATION E073 OF 2024
E OMINDE, J
FEBRUARY 26, 2025**

BETWEEN

ONYINKWA & COMPANY ADVOCATES APPLICANT

AND

JOEL KENDAGOR RESPONDENT

RULING

1. The Application the subject of this Ruling is dated 27th September 2024 seeking the following orders;
 - a. Spent
 - b. That this Honourable court be pleased to order that the Certificate of Costs issued to the Applicant, as against the Respondent, be converted and/or adopted as the judgement and decree of this court and consequently, a judgement be entered for the applicant against the respondent for Kshs. 235, 467/-.
 - c. That interest does accrue on the sum of Kshs. 235, 467/- at the rate of 14% per annum with effect from 16/02/2024 (the date of filing the Advocate – Client Bill of Costs) until payment in full as prescribed under paragraph 7 of the Advocates Remuneration Order.
 - d. That the costs of the Application be provided for.
2. The Application is premised on the grounds on the face of it and the averments in the supporting affidavit.
3. In the supporting affidavit, the applicant deposed that he was appointed to act on behalf of the Respondent in Eldoret CMCCR No. 1638 of 2020, Republic v Joel Kendagor. He filed the necessary pleadings and proceeded with the matter until conclusion. Upon conclusion of the matter, he sent a final fee note in respect of professional fees and disbursements but the Respondent failed to satisfy the same.



4. This necessitated the applicant to file the Advocate Client Bill dated 14/02/2024. The bill of costs was taxed on 06/08/2024 at the sum of Kshs. 235, 467/-. and the respondent has failed to settle the same despite being served with the certificate for costs. He urged that the taxed costs have accrued interest and continue to accrue interest which the applicant is entitled to at the rate of 14% from the date of filing. The said certificate of costs has not been altered and this court is fettered with jurisdiction to grant the orders sought. Urging that no party will be prejudiced if the orders sought are granted, he prayed that the application be allowed.

Determination.

5. Section 51(2) of the *Advocates Act* provides as follows: -

“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.”

6. Rule 7 of the Advocates (Remuneration) Order provides that: -

“An advocate may charge interests at 14% per annum on his disbursement and costs whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, such claim for interests is raised before the amount of the bill has been paid or tendered in full.”

7. In *Musyoka & Wambua Advocates v Rustam Hira Advocates* [2006] eKLR, the court stated as follows:

“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.”

8. In *Lubulellah & Associates v N. K. Brothers Limited* [2014] eKLR the court observed as follows:

“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 the 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 judgement. An applicant is not required to file suit for the recovery of costs. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the applicant against the Respondent her for the taxed sum indicated in the certificate of taxation that was issued on 25th November 2012.”

9. The above being the legal position, all that is required of the Court to confirm is that a Certificate of Costs was duly issued and that the Respondent was served. I have noted that annexed to the Application as DOO2 is a signed Certificate of Costs. I have also perused the Affidavit of Service dated 15th January 2025. The same indicates that personal service was effected upon the Respondent on 7th January 2025 at 11.50am at his home at Nandet village in Cheptiret.



10. Being satisfied that these two requirements were met, I am satisfied that the Application has merit and the same is allowed in its entirety with costs to the applicant

READ DATED AND SIGNED AT ELDORET ON 26TH FEBRUARY 2025

E. OMINDE

JUDGE

