



Kiruki & Kayika Advocates v Monarch Insurance Company Limited (Miscellaneous Civil Application E007 of 2024) [2025] KEHC 3773 (KLR) (27 March 2025) (Ruling)

Neutral citation: [2025] KEHC 3773 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
MISCELLANEOUS CIVIL APPLICATION E007 OF 2024
RL KORIR, J
MARCH 27, 2025**

BETWEEN

KIRUKI & KAYIKA ADVOCATES APPLICANT

AND

THE MONARCH INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. By Notice of Motion Application dated 3rd February, 2025, the Applicant sought the following Orders:-
 - I. That judgement be entered in favour of the Applicant against the Respondent for the sum of Kshs. 257,945.75/= being the certified costs due to the Applicant as against the Respondent.
 - II. That the Respondent do pay the Applicant interest on the taxed sum from the date of filing of this Application till payment in full.
2. The Application was brought under Section 51(2) of the Advocate’s Act Cap 16 Laws of Kenya. It raised the grounds that:-
 - a) The advocate – client costs due to the Applicant have been taxed at Kshs. 257, 945.75 in favour of the Applicant and a certificate of taxation issued to that effect.
 - b) The Respondent has neglected, refused and/or failed to settle the taxed costs.
 - c) It is only fair and just in the circumstances that judgement be entered for the amount of Kshs. 257, 945.75/= being the sum certified to be due to the Applicant as against the Respondent.
3. The Application is supported by the Affidavit of Kiruki Mutwiri sworn on 3rd February, 2025.



3. The Applicant averred that he was an advocate of this honourable court and the proprietor of the claimant firm. That the Respondent instructed the said firm to act for the Defendant, now Respondent in Chuka CMCC NO. E002 Jackline Karimi Ntwiga v. Monarch Insurance Company Ltd. & another. That thereafter the Respondent failed to pay the legal fees necessitating the filing of the Bill of costs which was taxed on 30th September, 2024 in the sum of Kshs. 257,945.75/= and a Certificate of costs issued to that effect. The Applicant further averred that Respondent had failed and neglected to settle the taxed costs. That the Certificate of taxation had not been appealed or set aside or altered in any way by the Respondent.
4. The Respondent did not file any response to the Application. On record are two affidavits of service. The first one dated 12th August, 2024 is sworn by one Nzuki David, process server and it shows that he served a Mention Notice upon the Respondent for proceedings before the Taxing Master. The said Notice bears the Respondent's receipt stamp. The second Affidavit of service sworn by the same process server is dated 18th February, 2025 and it shows that the Respondent was served a Hearing Notice for the present Application.
5. The Application came up for hearing on 4th March, 2025 when the Respondent did not attend court. The Applicant having demonstrated service was allowed by the court to prosecute his Application. The Applicant placed reliance on the Grounds on the face of the Application and on the Supporting Affidavit as already set out in this ruling.
6. I have considered the Application dated 3rd February, 2022, the supporting affidavit and the Applicant's oral submissions and the only issue for my determination was whether the Certificate of Taxation dated 10th October 2024 should be adopted as the Judgment of this court.
7. Section 51 (2) of the *Advocates Act* 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 judgment be entered for the sum certified to be due with costs.
8. It is clear that the amount contained in the Certificate of Taxation is final and that this court has the power to enter Judgment for the taxed amount. There is no evidence to show that the Certificate of Taxation had been altered or set aside.
9. In *Lubulellah & Associates Advocates v N K Brothers Limited* [2014] eKLR, the court held 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.”
10. I agree with the above holding that the law requires nothing of me other than to adopt the Certificate containing the taxed amount.
11. With respect to interest, the Applicant did not urge his position on interest on the taxed amount. Rule 7 of the Advocates Remuneration Rules provides that:-

An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.



12. In the end, I proceed to adopt the Certificate of Taxation dated 10th December, 2024 for the amount of Kshs 257,945.75/= as the Judgment of this court. The amount stated in the Certificate shall attract interest at 14% per annum from the date of the issuance of the Certificate of Taxation being 25th October 2022.

13. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 27TH DAY OF MARCH, 2025.

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R. LAGAT-KORIR

JUDGE

Ruling delivered virtually in the presence of Kiruki for the Applicant, N/A
for the Respondent and Muriuki (Court Assistant)

