



Mercy Nduta Mwangi t/a Mwangi Keng'ara & Co Advocates v Mungai (Miscellaneous Application E687 of 2021) [2025] KEHC 9184 (KLR) (Commercial and Tax) (27 June 2025) (Ruling)

Neutral citation: [2025] KEHC 9184 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E687 OF 2021**

FG MUGAMBI, J

JUNE 27, 2025

BETWEEN

**MERCY NDUTA MWANGI T/A MWANGI KENG'ARA & CO
ADVOCATES APPLICANT**

AND

ZIPPORAH MUNGAI RESPONDENT

RULING

1. Before court is the application dated 10th June 2024 brought pursuant to Section 51(2) of the *Advocates Act* and Rule 7 of the Advocates Remuneration Orders. The application seeks an order for the entry of judgment in favour of the advocate in the sum of Kshs. 446,880.89, being the taxed costs as per the Certificate of Taxation dated 28th May 2022. The applicant further seeks interest on the said sum in the amount of Kshs. 280,934.25, calculated from 28th October 2021 to 29th May 2024 at the rate of 14% per annum, bringing the total interest accrued to Kshs. 100,643.73, plus costs of this application.
2. The advocate confirms having filed a bill of costs dated 2nd September 2021 for unpaid legal fees. The bill of costs was taxed at Kshs 446,880= and a Certificate of Taxation was issued on 6th June 2024. It is further contended that the client made a part payment of Kshs 450,000= on 29th May 2024 but did not consider the accrued interest, which as of 29th May 2024 amounted to Kshs 100,643.73.
3. The respondent did not file a response to the application.

Analysis and Determination

4. I have considered the application and the question before court for determination is whether judgment should be entered in the sum Kshs. 446,880.89 cents only, of against the certificate of taxation dated 28th May 2022 together with interests at the rate of 14%.



5. 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.”

6. In *Lubulellah & Associates Advocates v N.K. Brothers Limited*, [2014] eKLR the court observed 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. An applicant is not required to file suit for the recovery of costs.”

7. In this case, it is not disputed that the certificate of costs was issued on 28th May 2022. The advocate admitted that the client on 29th May 2024 made a partial payment of Kshs 450,000= . The court is then left to determine whether the applicant should be awarded interest. Rule 7 of the Advocates Remuneration Order allows an advocate to charge interest on his costs and disbursements as follows:

“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.”

8. In view of the above, the rate of interest which an advocate may charge is set at 14% per annum calculated from one month from the date the bill of costs is delivered to the client. In this case the bill of costs is dated 2nd September 2021. One month from the date of delivery would place the commencement of interest accrual at 29th October 2021. The client did not file any replying affidavit or submissions to oppose the application. The Certificate of Costs that was issued by the Taxing Officer had not been set aside and/or altered. In the absence of any challenge, the court finds no basis to deny the application.

Disposition and Final Orders

9. Accordingly, I allow the application in the following terms:

- i. The advocate is awarded interest at 14% per annum calculated 30 days from the date when the bill of costs was served upon the client being 29th October 2021.
- ii. Each party shall bear its own costs.

DATED, SIGNED AND DELIVERED IN NAIROBI

THIS 27TH DAY OF JUNE_2025.

F. MUGAMBI

JUDGE

