



REPUBLIC OF KENYA



Mugendi Karigi & Company, Advocates v Nduta (Miscellaneous Application E030 of 2023) [2025] KEHC 9607 (KLR) (27 June 2025) (Ruling)

Neutral citation: [2025] KEHC 9607 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS APPLICATION E030 OF 2023**

**A MSHILA, J
JUNE 27, 2025**

BETWEEN

MUGENDI KARIGI & COMPANY, ADVOCATES APPLICANT

AND

JAMES MWANGI NDUTA RESPONDENT

RULING

Background

1. Before Court is the Notice of Motion dated 17th October, 2023 and brought under the provisions of Section 1A, 1B, 3A of the *Civil Procedure Act*; Section 51(2) of the *Advocates Act* (CAP 16) and Order 51(1) of the *Civil Procedure Rules* and all Enabling provisions of law. The Applicant sought for the following orders:-
 - a. That Judgment be entered in favor of the Applicant/Advocate for the taxed costs in the sum of Kshs.133,074/-
 - b. That the Respondent be condemned to pay the costs of this application.
2. The application is premised on the grounds on the face of the application and the Supporting Affidavit of Morris M. Kagiri dated 17/10/2023 made in support of the application; therein he states that the Respondent instructed the firm of Ngaywa & Kibet Partners LLP to act for him in Kiambu Chief Magistrates Court in Civil Case No. 353 of 2022.
3. The Respondent failed to pay the legal fees thereby necessitating the filing of the Bill of Costs which was taxed on 15/09/2023 in the sum of Kshs. 133,074/- and a Certificate of Taxation was issued on 6/10/2023 which sum the Respondent has failed and/or neglected to settle.



4. The Applicant prayed that judgment be entered as prayed for the sum of Kshs. 133,074/-. The Applicant also prayed for costs of the application. The instant application was uncontested as the Respondent though duly served failed to file any response.

Issues for Determination

5. Having considered the application and the supporting affidavit the issues framed for determination are;
6. Whether the application is merited for the court to adopt the Certificate of Taxation and enter judgment in the sum of Kshs. 133,074;

Analysis

7. Section 51(2) of the *Advocates Act* provides:-

“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 recovered thereby; and the court may make such orders in relation thereto as it thinks fit, including where the retainer is not disputed an order that judgment be entered for the sum of certified to be due with costs.”
8. The wordings of the above section empower the court to enter judgment on the taxed amount if the same is uncontested.
9. In determining whether the court should adopt the amount on the Certificate of Taxation as the judgment of the court it should be satisfied that the Certificate of Taxation has not been set aside.
10. Reference is made to the case of *Lubulellah & Associates Advocates v N. K. Brothers Limited* (2014) eKLR where 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. 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 herein for the taxed sum indicated in the Certificate of Taxation that was issued on 25th November 2012.”
11. From perusal of the court record this court is satisfied that the Ruling is uncontested as the Respondent has not moved any court by way of filing a Reference against the decision of the Taxing Master as provided for under Rule 11(1) of the *Advocates (Remuneration) Order*; The Rule provides that any party can object to the decision by filing a Reference within a stipulated time frame of fourteen (14) days;
12. It is apparent from the court record that the Respondent was notified of the Taxation and therefore ought to have filed an Objection to the Ruling and followed this by filing a Reference;
13. The Ruling has not been set aside, altered, varied and / or reviewed, nor has any appeal been filed. Therefore, no other action is required from this Court save to enter judgment as prayed against the Respondent.
14. To bring closure to the matter each party shall pay their own costs.



Findings & Determination

15. For the forgoing reasons this Court makes the following findings and determinations:-

- i. This court finds the application to be partially meritorious and it is hereby partially allowed;
- ii. The Certificate of Taxation issued on 6/10/2023 in the sum of Kshs. 133,074/- and is hereby adopted as a Judgment of this court. Judgment be and is hereby entered in favour of the Applicant/Advocates in the sum of Kshs. 133,074/-;
- iii. Each party to bear own their costs of this application.

Orders Accordingly.

DATED SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 27TH DAY OF JUNE, 2025.

A. MSHILA

JUDGE

In the presence of;

Sanja – Court Assistant

Njage – for Applicant

