



Murimi & 3 others v APA Insurance Company Limited (Miscellaneous Civil Application E097 of 2024) [2025] KEHC 9270 (KLR) (25 June 2025) (Judgment)

Neutral citation: [2025] KEHC 9270 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
MISCELLANEOUS CIVIL APPLICATION E097 OF 2024**

**GL NZIOKA, J
JUNE 25, 2025**

BETWEEN

**PAUL KIONGO MURIMI 1ST APPLICANT
ANDERSON OMONDI MBAGO 2ND APPLICANT
ASTON MUCHELA ONG'ENGE 3RD APPLICANT
P/A MURIMI, NDUMA MBAGO & MUCHELA ADVOCATES .. 4TH APPLICANT**

AND

APA INSURANCE COMPANY LIMITED RESPONDENT

JUDGMENT

1. By a notice of motion application dated 16th December, 2024 brought under the provisions of Section 51(2) of the *Advocates Act* (Cap 16) Laws of Kenya, the applicant is seeking for the following orders;
 - a. That the judgment be entered for the applicants against the respondent for the sum of Kenya shillings Seventy thousand, three hundred and forty-seven (Ksh70, 347.00) only being the certified costs due to the applicant as against the respondent.
 - b. That the respondent do pay to the applicants the costs of this application together with interest on the taxed sum.
2. The application is based on the grounds thereto and the affidavit of the even date sworn by Paul Murimi Kiongo an Advocate of the High Court working in the applicant's firm.
3. He avers that, that the respondent instructed the firm of M/s Murimi, Ndumi, Mbago & Muchela Advocates to act for the Defendant in Naivasha CMCC No. 740 of 2016 - *Elimelida Moraa v Plantation Plants Kenya Limited*. Annexed hereto and marked exhibit 1 is a true copy of the instructions letter. That thereafter, Respondent has neglected, refused and/or failed to pay legal fees,



thereby necessitating the filing of a bill of costs herein for taxation. That was taxed for a sum of Kenya Shillings Seventy thousand, three hundred and forty-seven (70,347.00) only and a certificate of taxation issued to that effect.

4. However, the Respondent has neglected, refused and/or failed to settle the taxed costs.
5. That the certificate of taxation has not been appealed against, set aside and altered by the Respondent as such it is only fair and just in the circumstances that judgment be entered for the amount of Kenya shillings seventy thousand, three hundred and forty-seven (Ksh70,347.00) only being the sum certified to be due to the applicant herein as against the Respondent.
6. On 22nd January, 2025, the court ordered that the application be served for directions inter parties on 13th February, 2025. On that date, the respondent was absent but and informed that the respondent had been served and an affidavit of service filed. The matter was stood over to 8th April, 2025 for a ruling.
7. On that date, the matter was called out but there were no parties in court and it was stood over to 30th April, 2025 and directed that necessary notice(s) be issued. On the 30th April, 2025, the decision was deferred due to pressure of work. Subsequently, the matter was scheduled for ruling on 25th June, 2025.
8. The application is considered in the light of the materials placed before the court and the provisions of Section 51(2) of the *Advocates Act* which states;

“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”.

9. In the instant matter, the applicant has availed evidence of instructions by the respondent to act for it in CMCC No. 740 of 2016 Elimelinda Moraa Vs Plantation Plants Kenya Limited. Further evidence has been availed through provisions of a certificate of taxation dated 31st October, 2024 in which the bill of costs was taxed in the sum of Ksh70,347.00/=.
10. The respondent has not offered any evidence to the effect that the retainer is in dispute or the certificate of taxation has been varied or set aside. Consequently, there is no valid reason why judgment cannot be entered as prayed. I therefore enter judgment in favour of the applicant as prayed for in prayer (1) of the application.
11. As regards interest, I note there is no evidence of demand of the taxed amount. I shall award interest from the date of filing of the subject application herein being the 16th day of December, 2024.
12. It is so ordered.

DATED, DELIVERED, AND SIGNED THIS 25TH DAY OF JUNE, 2025.

GRACE L. NZIOKA

JUDGE

