



**Investment v Mugambi & another (Miscellaneous Civil Application
E082 of 2023) [2023] KEHC 27032 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 27032 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
MISCELLANEOUS CIVIL APPLICATION E082 OF 2023
TW CHERERE, J
DECEMBER 20, 2023**

BETWEEN

MUNDUSI INVESTMENT APPLICANT

AND

PATRICK KIMATHI MUGAMBI 1ST RESPONDENT

DAVID MUTHEE MUGAMBI 2ND RESPONDENT

RULING

1. By chamber summons dated July 27, 2023, applicant seeks the following orders:
 1.spent
 2. Court be pleased to enlarge time for filing objection on taxation
 3. The certificate of costs given on June 22, 2023 in Nkubu PMCC NO. 76 of 2007 be set aside in respect to Schedule 2 and 4 thereof which were not explained
 4. That schedule 2 and 4 of the Bill of Costs be taxed in such sums as are reasonable and to scale
2. The summons which is supported by the affidavit of Joseph Mwebia M'Anampiu, a director of the applicant, sworn on June 27, 2023 is based mainly on the ground that the costs were not awarded to scale.
3. Respondents opposed by application by way of an affidavit sworn by the 1st respondent on November 2, 2023 in which he avers that the applicant has not demonstrated that the costs are exaggerated.
4. I have considered the summons in the light of affidavits and annexures on record and submission filed on behalf of the parties.



5. Paragraph 11 of the Advocates (Remuneration) Order provides a detailed process of objection to taxation of costs as follows:

- “ 11. Objection to decision on taxation and appeal to Court of Appeal.
- (1) Should any party object to the decision of the taxing officer, he may within fourteen days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.
 - (2) The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by chamber summons, which shall be served on all the parties concerned, setting out the grounds of his objection.
 - (3) Any person aggrieved by the decision of the judge upon any objection referred to such judge under subsection (2) may, with the leave of the judge but not otherwise, appeal to the Court of Appeal.
 - (4) The High court shall have power in its discretion by order to enlarge the time fixed by subparagraph (1) or subparagraph (2) for the taking of any step; application for such an order may be made by chamber summons upon giving to every other interested party not less than three clear days' notice in writing or as the Court may direct, and may be so made notwithstanding that the time sought to be enlarged may have already expired.”

6. From the provisions of the law cited above it is evident that a party who is aggrieved by the decision of a taxing officer and wishes to lodge an objection to it is duty bound to give notice in writing to the taxing master. The notice should consist of itemized costs objected to and the taxing master is obligated to give reasons for the taxation. Upon receipt of the reasons from the taxing officer, the aggrieved party may apply to a judge setting out the grounds of the objection.

7. It is apparent that a reference is to be filed before the judge after the reasons for the taxation have been given. Before then, there is no reference that can lie to the judge. This is because the judge shall have nothing to fault the taxing master on or approve of.

8. From the foregoing, I find that the chamber summons dated July 27, 2023 is premature and it is dismissed with costs to the Respondents.

DATED IN MERU ON THIS 20th DAY OF December 2023

WAMAE. T. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

For Applicant - Ms. Kimotho for Gichunge Muthuri & Co. Advocates

For Respondents – Mr. Ondieki for J.O.Ondieki & Co. Advocates

