



Lantey v Land Registrar Kajiado; Lantey (Interested Party) (Miscellaneous Application E017 of 2022) [2023] KEHC 27307 (KLR) (19 December 2023) (Ruling)

Neutral citation: [2023] KEHC 27307 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
MISCELLANEOUS APPLICATION E017 OF 2022
SN MUTUKU, J
DECEMBER 19, 2023**

**IN THE MATTER OF OBJECTION TO A PARTY AND PARTY BILL OF COSTS UNDER
RULE 11(2) & (4) OF THE ADVOCATES REMUNERATION ORDER 2014 AS AMENDED**

AND

**IN THE MATTER OF KAJIADO CHIEF MAGISTRATES
COURT ELC MISCELLANEOUS APPLICATION**

BETWEEN

TIMOTHY MEELI LANTEY APPLICANT

AND

LAND REGISTRAR KAJIADO RESPONDENT

AND

ANN TEPEIYA LANTEY INTERESTED PARTY

RULING

The Application dated 17th March 2022

1. Under consideration are two applications. The 1st application is dated March 17, 2022 and the 2nd application is dated April 7, 2022. This honorable court directed that the two applications be dealt with together through written submissions.
2. The Application dated March 17, 2022 is a chamber summons application brought under rule 11(2) & (4) of the *Advocates (Remunerations) Order 2014*, sections 1A, 1B, 3, 3A & 95 of the *Civil Procedure Act*, article 48, 50 and article 159 of the *Constitution of Kenya* 2010 and all other enabling provisions seeking orders that:
 - a. Spent.



- b. Spent.
 - c. That the Applicant do deposit in court as security, the entire cost as certified by the taxing officer within such period as this Honourable Court may deem it just or in the alternative, in joint interest account to be opened in the names of the counsels for the parties herein.
 - d. That this honourable court be pleased to enlarge or extend time for lodging reference and or objections against the ruling of the taxing officer of this Honourable Court dated January 27, 2022.
 - e. That this honourable court be pleased to admit the instant reference and /or objections against the ruling of the taxing officer of this Honourable Court dated January 27, 2022 as duly filed and served.
 - f. That the ruling of the taxing officer of this Honourable Court dated January 27, 2022 be set aside, reviewed and /or vacated.
 - g. That the certificate of taxation issued on the 18th Day of February, 2022 be quashed and/or set aside.
 - h. That this Honorable Court be pleased to remit party and party Bill of Costs dated July 17, 2021 back to a different Taxing officer with directions that the same be taxed afresh in accordance with the *Advocates (Remuneration) order*.
 - i. Cost of this application be borne by the Respondent.
2. The application is supported by the grounds on the face of it and in the Supporting Affidavit dated March 17, 2022 in which the applicant has stated that he is ready and willing to deposit in court as security the entire cost certified by the taxing officer in a joint interest earning account in the names of both advocates.
 3. He stated that on 25th March, 2019 he instituted a suit in person being ELC Misc. Application 8 of 2019 at Kajiado Chief Magistrate's Court against the Respondent therein (the Land Registrar Kajiado). That the application was allowed, and an order issued on May 15, 2019. That on May 18, 2020 the Interested Party herein sought to set aside the said orders through an application. That the said application was dismissed on August 25, 2020 with no orders as to costs.
 4. That aggrieved by these orders he sought review, where the Respondent's counsel filed a preliminary objection to that application. That the two were heard and the review application was dismissed with costs. That the Respondents went ahead and filed Party & Party Bill of costs dated July 19, 2021 which was taxed at Kshs. 176,276.06/-. That his advocate on record filed grounds of opposition which were later dismissed *vide* a ruling dated January 27, 2022 where the bill was taxed at kshs. 95,073.06/-. A certificate of taxation was issued, which the Respondent used to apply for warrants of attachment leading to proclamation of the Applicant's movable properties.
 5. It is his case that his advocates on record at the time did not inform him of the said ruling. That the time for lodging a reference has since lapsed. That the failure to lodge the reference in good time is an inadvertent mistake which ought not to be visited on him. That it is trite law that the mistake of counsel ought not to be visited on a client. He stated that he stands to suffer irreparable loss and damage should Respondents be allowed to proceed with extension.
 6. He stated that his reference has overwhelming chances of success. He further laid out his dissatisfaction with the ruling under paragraph 27 of his affidavit. He stated that there were fundamental errors of



law on the said ruling. That he has a right to be heard which should not be taken away. He averred that the reference raises substantial issues of law. That it is trite that this court do prefer to render substantive justice by not dwelling on procedural technicalities. That no prejudice will befall the Respondent should the orders sought be granted.

Interested Party's Response

7. The Interested Party, Ann Tepeiya Lantey, filed her Replying Affidavit dated May 19, 2022 sworn by her advocate, Salome Muhia Beacco. The deponent has stated that the Misc. Application No. 8 of 2019 was the Applicant's application and not his former advocate's; that the advocate was acting as his agent and therefore the Applicant cannot run away from the actions of his counsel.
8. It is the Interested Party's case that she was awarded costs in the ruling January 27, 2022 after their preliminary objection to the Applicant's review application was successful; that they filed Party to Party Bill of Costs dated July 19, 2021 and a notice of taxation dated August 20, 2021, both of which were served upon the Applicant with a hearing notice September 16, 2021; that the Applicant's advocate was present in court on the said date where he sought 14 days' leave to put in his submissions; that leave was granted and by consent the matter was scheduled for October 21, 2021 on which date the Applicant's advocate did not appear; that a further mention date notice was issued for 18th November, 2021 and when the matter came up in court there was no appearance despite service being effected.
9. It is further deposed that when the matter was mentioned on December 9, 2021 the court indicted that it had received their grounds of opposition which they (the Interested Party) responded to but not their submissions; that the advocate indicated that they had filed the grounds of opposition but they did not avail them in the Court's record. It was their case that the Ruling date was taken by consent of all parties and that therefore they cannot fault the court.
10. It was their case therefore that no evidence has been given by the Applicant to demonstrate that he withdrew instructions from the former advocates; that the excuse that they were not aware of the ruling date is an afterthought; that the Applicant neglected his matter; that the Applicant could have taken steps to know the status of his matter including visiting the registry and that the procedure for an aggrieved party over a taxing officer's decision is laid down under rule 11(4) of the Advocates Remuneration Order; that a party should make an application for extension of time to file a reference and not one for stay of execution; that a stay of execution cannot be granted unless there is a reference; that the orders sought in the application are scandalous, frivolous and amount to an abuse of court process and that the applicant's application is aimed at causing prejudice and delay to the interested party.

Applicant's Application dated 7th April, 2022

11. The 2nd Application is the Notice of Motion brought under section 1A, 1B, 3, 3A, 63(e) of the [Civil Procedure Act](#), order 51 rule 1 of the [Civil Procedure Rules](#) and article 159 of the [Constitution of Kenya 2010](#) and all other enabling provisions seeking orders that:
 - i. Spent
 - ii. Spent
 - iii. That this Honourable Court be pleased to declare the attachment to the Applicant's motor vehicle registration Number KBC 326D Betabase Auctioneers, the Interested Party herein as irregular, illegal and unlawful.



- iv. That this Honourable court be pleased to quash and or declare as null and void the Notification of sale of the Applicant's motor vehicle registration Number KBC 326D Betabase Auctioneers, the interested party herein on the 16th day of March 2022 for wanting in statutory requirements.
 - v. That this Honourable court be pleased to reprimand and to take any necessary action it may deem fit and just against the M/S Betabase Auctioneers, the interested party herein on the 16th day of March, 2022 for wanting in statutory requirements.
 - vi. That this Honourable Court be pleased to issue such other further orders as it may deem fit, just and expedient for the end of justice to prevail.
 - vii. That the cost of this Applicant be provided for.
12. This application is supported by the grounds on the face of it and the supporting affidavit dated April 7, 2022 in which the Applicant has deponed that he is the owner of motor vehicle KBC 326D. That on March 22, 2022 this Court granted him temporary stay of execution of the certificate of costs and all consequential orders including warrants of attachment and sale of his movable properties. That they served the said orders upon the respondent. That despite this, the Interested Party has proceeded to attach and issued a notification of sale of his motor vehicle; that the attachment is therefore irregular, illegal and unlawful as it is not among the properties proclaimed by the auctioneers on March 9, 2022.
 13. The Applicant has stated that since the motor vehicle did not form part of the properties proclaimed the auctioneers required leave of this court to attach the same as per rule 12(2)(a)& (3) of the *Auctioneers Rules 1997*. It was his case that the notification of sale issued to him did not state the date, time and place of sale contrary to section 21(1) & (2) of the *Auctioneers Act* and therefore he is apprehensive that his motor vehicle would be sold any time.
 14. He has deposed that it is a requirement of the rule of law and order that the authority and dignity of the courts are upheld as courts do not issue orders in vain and requires the same to be obeyed and that the actions of the auctioneers show a deliberate disobedience of the orders issued on March 22, 2022.

Respondent's Response

15. It is the response of the Respondent that she was awarded costs following the ruling dated January 27, 2022 which was in her favour. That the costs were taxed, and a certificate issued on February 18, 2022. That they obtained warrants of attachment on March 9, 2022. That her advocates on record then instructed the auctioneers to commence the attachment process. That the auctioneers issued two sets of proclamations to the Applicant. That the motor vehicle was listed as part of the properties to be attached in the second proclamation. That on the lapse of the seven days the motor vehicle was attached and a notification of sale was issued to the Applicant. That the said notification was signed by the Applicant; that the applicant being indolent to the proclaimed notices warranted them to commence the attachment process; that the proclamation and attachment process was legal as they followed all due processes and that the averments by the applicant that the proclamation was illegal is a misrepresentation of facts.
16. It is stated that by the time the respondent received the order for stay, the motor vehicle had already been attached and was at the yard waiting to be sold. It is her case that the motor vehicle had not been sold as the advertisement had not been done.



17. She contended that neither she nor the auctioneers disobeyed any court orders. That the Applicant should demonstrate how the auctioneers violated sections 21 and 23 of the [Auctioneers Act](#) and that the current application is frivolous, vexatious and aimed at wasting judicial time and ought to be dismissed.

Applicant's Supplementary Affidavit

18. The Applicant filed a Supplementary Affidavit dated June 10, 2022 in which he has stated that contrary to what was alleged in the affidavit dated May 19, 2022, he was not appealing the ruling but objecting to the taxing officer's exercise of judicial discretion during the entire process of taxing the costs awardable. That in the entire said affidavit no evidence was adduced to show that he indeed was aware of the ruling date and failed to attend court. That the said affidavit misunderstood his prayers he stressed that he sought both leave to lodge the reference out of time and its admission as duly filed and served.
19. In response to the Replying Affidavit dated May 20, 2022 he stated that the entire averments therein were hearsay as the deponent did not have first hand information. He questioned the legitimacy and regularity of the two proclamations exhibited as volume 1 and 2. That a close look at the two proclamations shows that they were issued on different dates by different persons as the serial numbers are not subsequent and the handwritings are not similar.
20. That had the auctioneers intended on proclaiming his motor vehicle as claimed, there was no need for them to proclaim his other movable properties as the amount owed of Kshs. 167, 573/- would have been sufficient.

Submissions

21. The Applicant filed their submissions dated November 25, 2022 and submitted on both applications. He has raised 6 grounds for determination with respect to the application dated March 17, 2022 as shown on the face of the submissions.
22. The Applicant reiterated the chronology of events leading to the ruling dated January 27, 2022 and stated that he only became aware of this ruling after the auctioneers went to his home for execution. It is their case that the delay of 43 days was excusable and that no evidence has been adduced by the respondent to rebut this contention. On this they relied on the case of [Addax Kenya Limited v National Environment Management Authority](#) [2017] eKLR, where the court stated that:
- “I am in agreement with the Appellant that there was unexplained delay of about 20 days after receipt of the ruling before the present application was brought. The delay although unexplained was in my view not inordinate in the circumstances.”
23. He submitted that the reason he failed to lodge his objections in good time was failure of his advocate to notify him of the date of the ruling; that it is trite that mistakes of counsel should not be visited on the client. He cited [Belinda Muras & 6 others v Amos Wainaina](#) [1978] KLR where it was held that:
- “A mistake is a mistake. It is no less a mistake because it is an unfortunate step. It is no less pardonable because it is committed by senior counsel. Though in the case of junior counsel the court might feel compassionate more readily. A blunder on a point of law can be a mistake. The door of justice is not closed because of a mistake which has been made by a lawyer of experience who ought to know better. The court may not condone it but ought certainly to do whatever is necessary to rectify it if the interest of justice so dictates.”



24. Similarly in *Phillip Chemwolo & another v Augustine Kubebe* [1982-88] KLR 103 at 1040 it was stated that:

“Blunders will continue to be made from time to time and it does not follow that because a mistake has been made that a party should suffer the penalty of not having his case heard on merit.”

25. The Applicant has argued that if the orders are not granted, he stands to suffer irreparable loss and damage; that the reference is arguable and his right under Article 50 of the Constitution should be protected. He relied on *Addax Kenya Limited v National Environment Management Authority* [2017]eKLR where the court stated that:

“I am in agreement with the submissions by the Appellant once again that the 2nd Respondent should have sought in its application not only leave to file reference out of time but also to give notice of objection under paragraph 11(1) of the *Advocates Remuneration order*. I am of the view however that this is also an irregularity in procedure which is not fatal to the application. This is because, if the court finds that the 2nd Respondent has valid grounds for seeking extension of time to file a reference under paragraph 11(2) of the *Advocates Remuneration order*, I see no reason why the court cannot on its own motion extend time for the 2nd Respondent to file a notice of objection to taxation under paragraph 11 (1) of the Remuneration Order. This point in my view is also a procedural technicality which the court should ignore for the sake of substantive justice.”

26. He has argued that this court has unfettered discretion to enlarge time in order for him to be properly before court; that when taking into consideration the issue of discretion, justice and equity are considered to strike a balance between the Applicant’s and Respondent’s rights. This was affirmed in the case of *Banco Arabe Espanol v Bank of Uganda* [1999] 2 EA 22 the court held that:

“The administration of justice should normally require that the substance of all disputes should be investigated and decided on their merits and that errors, lapses should not necessarily debar a litigant from the pursuit of his rights and unless lack of adherence to rules renders the appeal process difficult and inoperative. It should seem that the main purpose of litigation, namely, the hearing and determination of disputes should be fostered rather than hindered.”

27. On the second issue they submitted that as per the provisions of section 1A, and 3A of the *Civil Procedure Act*, this court should invoke its inherent jurisdiction and admit the reference for hearing on merits and in the interest of justice.

28. On the third issue, it is submitted that it is well established in review that the taxing master’s discretion will not be interfered with unless it is found that he/she has not exercised his/her discretion properly or upon acting on wrong principles; that the amount allowed was excessive and unjustifiable, that the decision was based on an error of principle and amounted to wrongful exercise of judicial discretion and that no receipts were produced in support of the expenditure on disbursement; that by failing to consider his grounds of opposition the taxing master made an error of principle; that there was also an error of law in dismissing the grounds of opposition as there is no law providing that the said grounds should be purely on points of law.



29. On the fourth issue it was submitted that it is trite law that this court cannot perpetuate an illegality and that once an illegality is brought into the attention of the court, it overrides all other questions including pleadings.
30. It is submitted in respect to the application dated April 7, 2022 that on March 9, 2022 he was only issued with one proclamation and the same did not proclaim his motor vehicle; that the purported second proclamation alluded to by the interested party is questionable as the same clearly shows that it was issued on different date from the first proclamation as the serial numbers are not in sequence; that the said proclamation was a forgery; that the auctioneer was required to seek leave to attach the Applicant's additional assets as per rule 12(2) of the [Auctioneers Act](#). it was their case that the attachment was therefore illegal and unlawful for want of leave.
31. It is submitted that the Notification of sale of March 16, 2022 should be quashed and or nullified as the same did not conform to the requirements under section 21(1) and (2) of the [Auctioneers Act](#).

Respondent's Submissions

32. The Respondent filed her submissions dated October 3, 2022 and raised the issues found on the face of the submissions. She submitted that as per the evidence in their Replying Affidavit the Applicant had a notorious habit of absconding court and disobeying the Court's orders. The Respondent opposed the extension of time. She cited [Duale Mary Ann Gurre v Amina Mobammed Mahmood & another](#) [2014]eKLR, cited in [John Okuna Ogango v Dolores N. Collins & another](#)[2022] eKLR where it was held that:

“An advocate is the agent of the party who instructs him and such instructing client as the principal continues to have the obligation and the duty to ensure that the agent is executing the instructions given. In the case of litigation, the suit belongs to the client and the client has an obligation to do follow up with his Advocate to ensure the Advocate is carrying out the instructions as given. The litigation does not belong to the Advocate but to the client. If the Advocate commits a negligent act the client has an independent cause of action against the Advocate.”

33. It is submitted that the Applicant has not given sufficient reason for extension of time to file the reference contrary to section 95 of the [Civil Procedure Act](#); that enlargement of time is not a matter of right and that the same is at the discretion of the Court and a party should offer sufficient reason to compel the Court to warrant such orders. She cited [Nicholas Kiptoo Arap Korir Salat v Independent Electoral and Boundaries Commission & 7 others](#) [2014] eKLR where the court held that:

“Time is a crucial component in dispensation of justice, hence the maxim: Justice delayed is justice denied. It is a litigants' legitimate expectation where they seek justice that the same will be dispensed timeously. Hence, the various constitutional and statutory provisions on time frames within which matters have to be heard and determined. Extension of time being a creature of equity, one can only enjoy it if he acts equitably: he who seeks equity must do equity. Hence, one has to lay a basis that he was not at fault so as to let time to lapse. Extension of time is not a right of a litigant against a court, but a discretionary power of the courts which litigants have to lay a basis where they seek courts to grant it.”

34. The Respondent argued that the Applicant having failed to file a reference in this matter means there is no appeal or reference in the case to warrant stay and therefore an order of stay is misplaced. That the stay orders cannot be granted. She relied on [Municipal Council of Kisumu v Kenya Power and Lighting](#)



Company Limited(2017) eKLR where it was held that the Oxygen principle does not empower the court to grant stay of execution where the Applicant has not appealed against the order or decree sought to be stayed. He termed the Applicant's application premature and incompetent.

35. It was further argued that the Applicant has not demonstrated in what way he will suffer substantial loss; that there is no basis in law or fact for an order of the release of the Applicant's motor vehicle; that procedure was followed under section 21 of the *Auctioneers Act*; that the Auctioneer duly proclaimed the said vehicle on March 9, 2022; that there is no law requirement an auctioneer to seek leave of court before attaching property where there is a valid decree and where the court has issued warrants of attachment and that as a result this Honourable Court should find that the subject motor vehicle is rightfully withheld until payment of the costs.
36. On the issue of costs, they submitted that they have already demonstrated that the Applications herein are an afterthought, and this court should dismiss the same with costs to them.

Analysis and Determination

37. I have read the two applications and the grounds in support of each application. I have also read the responses to the two applications, the submissions of the parties and the authorities cited by each party in support of their cases. I find the following as the issues arising from the two applications for determination:
- i. Whether this court should extend time within which to file the reference?
 - ii. Whether this court should grant stay of execution to the applicant?
 - iii. Whether the attachment of the Applicant's motor vehicle was irregular, illegal and unlawful?
38. Rule 11 of the *Advocates Remuneration Order* provides the procedure to be adopted before instituting a matter of the nature as the one before this Court. The rule provides that:
- (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.
39. In determining whether to extend time or not, some of the factors a court considers are the length of the delay and reasons for such delay. The delay in this matter has been explained by the Applicant that he was not aware of the said ruling as his advocate had not communicated the date to him. He has argued that the mistakes of his counsel should not be visited on him. This reason was highly challenged by the



Respondent who stated that the advocates took the said ruling date by consent and that all through, the Applicant's former advocate had been participating in the proceedings and therefore the reasons for the delay are not excusable.

40. On whether the reference has a high chance of success, it is the case for the Applicant that the Taxing Officer used the wrong principles in assessing the Bill of Costs and there is therefore reason for this court to interfere with the decision. The Applicant is also willing and ready to furnish the security so that the stay orders can be granted. He has argued that the delay was caused due to mistakes of his counsel and urged the court not to punish him for mistakes of counsel. He has also pleaded that he will suffer substantial loss if the orders are not granted and that the taxing master made some errors that ought to be corrected. I have considered this issue and I am satisfied that the Applicant has satisfied the court on the issue of deposit of security of costs.
41. It is trite that mistakes of counsel should not be visited on the client. In *Philip Chomwolo & another v. Augustine Kubede* (1982)-88 KLR 103 at 1040, it was stated (Apaloo, JA) that:
- “Blunders will continue to be made from time to time and it does not follow that because a mistake has been made, a party should suffer the penalty of not having his case heard on merit”.
42. On whether the attachment of the applicant's motor vehicle was irregular, illegal and unlawful. The respondent's claims there were two sets of proclamations and that the second set proclaimed the motor vehicle. The applicants claims that the auctioneer did not follow the law. Rule 15 of the *Auctioneers Rules 1997* provide as follows:
15. Immovable property
- Upon receipt of a court warrant or letter of instruction the auctioneer shall in the case of immovable property—
- (a) record the court warrant or letter of instruction in the register;
 - (b) prepare a notification of sale in the form prescribed in Sale Form 4 set out in the Second Schedule indicating the value of each property to be sold;
 - (c) locate the property and serve the notification of sale of the property on the registered owner or an adult member of his family residing or working with him or where a person refuses to sign such notification, the auctioneer shall sign a certificate to that effect;
 - (d) give in writing to the owner of the property a notice of not less than fortyfive days within which the owner may redeem the property by payment of the amount set forth in the court warrant or letter of instruction;
 - (e) on expiry of the period of notice without payment arrange sale of the property not earlier than fourteen days after the first newspaper advertisement.
43. I have read the document annexed to the Applicant's Supporting Affidavit to the Notice of Motion dated April 7, 2022 and marked 'TML-4'. It is said to be the Notification of Sale by Betabase Auctioneers. I have noted that it does not conform to rule 15 (b) of the *Auctioneers Rules* in that it fails to conform to Sale Form 4 set out in the Second Schedule in many respects as clearly provided in Rule 15.
44. I have also noted that the said document does not comply with rule 16 of the *Auctioneers Rules 1997* which provides that:



16. Advertisement (1) An advertisement by an auctioneer shall, in addition to any other matter required by the court, contain—
- (a) the date, time and place of the proposed sale;
 - (b) the conditions of sale or where they may be obtained;
 - (c) the time for viewing the property to be sold;
 - (d) in respect of movable property other than perishable goods and livestock, an accurate description of the goods to be sold and a statement as to whether or not they are to be sold subject to a reserve price;
 - (e) in respect of goods of a perishable nature or livestock an accurate description of the goods to be sold and of their condition and a statement as to whether or not they are to be sold subject to a reserve price;
 - (f) in case of immovable property all the information required to be contained in the court warrant or letter of instruction except the amount to be recovered and the exact amount of any reserve price
45. The document does not bear the date, time and place of the proposed sale. For the date and time of the sale, it is indicated “To be stated” but the place of sale is blank. The conditions of sale of where these can be obtained is not indicated or the time of viewing the property to be sold. In brief the document said to be the Notification of Sale of motor vehicle KBC 326D does not conform to the law. Whether the proclamations were two and whether the motor vehicle in issue was properly proclaimed is an issue that remains to be resolved. In addition to this there is the issue of the Notification for Sale not meeting the requirements of law. I agree with the Applicant that the Auctioneer breached the law. I therefore find that the Applicant has persuaded this court that he deserves the orders he is seeking.
46. I have considered the two applications under determination and the responses in opposition to the two applications, the submissions and authorities cited. I am persuaded that the two applications are merited. Consequently, in respect to the Chamber Summons dated March 17, 2022, I grant the following prayers:
- i. That the stay of execution of the certificate of costs issued on February 18, 2022, including all consequential orders, is hereby granted.
 - ii. That the instant reference or objection against the ruling of the Taxing Officer dated January 27, 2022 is here deemed as duly filed and served.
 - iii. That the Ruling of the Taxing Officer dated January 27, 2022 is hereby set aside.
 - iv. That the certificate of taxation issued on the February 18, 2022 is hereby set aside.
 - v. The Applicant shall provide security of costs by depositing into an interest earning account held in the joint names of both counsel currently representing the parties within 30 days after today’s date, the entire costs as certified by the Taxing Officer.
 - vi. The Party and Party Bill of Costs dated July 17, 2021 is hereby remitted for taxation before a different Taxing Officer.
47. In respect to the Notice of Motion dated April 7, 2022, I allow the application in terms of prayers 3 and 4.



48. In both applications I award costs to the Applicant.

49. Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 19TH DECEMBER 2023.

S. N. MUTUKU

JUEGE

