



**Rioki v Maengwe t/a GM Maengwe & Co Advocates (Miscellaneous Cause 1A of 2023) [2023] KEELC 17990 (KLR) (14 June 2023) (Ruling)**

Neutral citation: [2023] KEELC 17990 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA  
MISCELLANEOUS CAUSE 1A OF 2023**

**JM KAMAU, J**

**JUNE 14, 2023**

**BETWEEN**

**CAROLINE NYAKERARIO RIOKI ..... APPLICANT**

**AND**

**GEORGE MAENGWE T/A GM MAENGWE & CO  
ADVOCATES ..... RESPONDENT**

**RULING**

1. In her Reference dated August 5, 2023, the Objector seeks orders that the Decision of the Honourable Taxing Master delivered on April 27, 2023 as relates the Advocates Client's Bill of Costs dated February 16, 2023 be set aside and that this court re-taxes the same. She argues that the value of the subject matter is ascertainable at Kshs 1,700,000/= which ought to form the basis of the Taxation, that the Advocate attended court only twice virtually and that the matter was determined summarily and the fees for instructions therefore ought to have been awarded at 75%. She also claims that irrelevant factors were considered when taxing the Bill.
2. The Advocate opposed this Application through a Replying Affidavit sworn on May 17, 2023 where he deponed that he was defending the client for 2 properties ie West Mugirango/Siamani/3418 and West Mugirango/Siamani/3418 respectively and the Bill was in respect to services rendered to the client and that the Advocate is entitled to recover the whole retainer fee. He finally says that the Taxing Master exercised his discretion judiciously. I have considered rival Submissions and the least I should do is to consider the contested items and re-tax the Bill.
3. As to Item 1 the value of the property – ie West Mugirango/siamani/3418 has been brought to the attention of this court by the client in ELC Cause No E007 of 2022 at Kshs 1,700,000/= and this was not objected to by the Advocate. Since the Advocate exited the matter before the Hearing of the case the Instruction fee should be allowed at 75%. For the 1<sup>st</sup> Kshs 1,000,000/= the fees is Kshs 75,000 plus 1.75% of the balance of Kshs 700,000/= which is Kshs 12,250/=. This brings it to a total of Kshs



87,250/=. 75% of this is Kshs 65,437.50/=. I will increase it to Kshs 75,000/= Add half of this amount of Kshs 37,500/= since this is Advocate/Client Bill to give us Kshs 112,500/=. Since the matter never reached its Hearing, I will not award anything for getting up or preparing for trial since no evidence was brought up that the case was confirmed for Hearing.

Items 3 & 4:

Drawing Memorandum of Appearance, Defence & Preliminary Objection I would award Kshs 1,100/= each.

Item 5:

I would award Kshs 1,000/=.

Items 7 & 8:

The figure allowed is Kshs 50 each.

Items 10, 11, 12, 13 & 14:

I would award Kshs 3,000/= for the Items 11,12 and 13 and none for Items 10 and 14 when there were no sittings.

4. As for Disbursements, the same should be allowed upon proof of payment by issue of receipts. The payment of the final figure of this Bill of costs should take into consideration any advance payments made to the Advocate and the same deducted from the amount to be paid.

**RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 14<sup>TH</sup> DAY OF JUNE 2023.**

**MUGO KAMAU**

**JUDGE**

**In the Presence of: -**

Court Assistant: Sibota

Applicant: Mr. Mwita

Respondent: N/A

