



Nyamu Nyaga & Company Advocate v Meru University of Science and Technology (Environment and Land Miscellaneous Application E048 of 2024) [2025] KEELC 1376 (KLR) (19 March 2025) (Ruling)

Neutral citation: [2025] KEELC 1376 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E048 OF 2024
BM EBOSO, J
MARCH 19, 2025

BETWEEN

NYAMU NYAGA & COMPANY ADVOCATES APPLICANT

AND

MERU UNIVERSITY OF SCIENCE AND TECHNOLOGY RESPONDENT

RULING

1. Meru ELC Land Miscellaneous Application No E048/2024 was initiated through a notice of motion dated 2/12/2024. Through it, M/s Nyamu Nyaga & Co Advocates seek an order adopting as a judgment of this Court, the taxing officer's award of Kshs 62,628,920 as per the certificate of taxation dated 12/11/2024. The application also seeks an order awarding the advocate interest on the above sum at "14% with effect from the date of taxation". The orders sought in the motion do not contain details of the cause in which the certificate of taxation was issued. The application was brought under the provisions of Section 51 (2) of the *Advocates Act*. It is contended that the taxing officer of this court taxed costs of the applicant/advocate at Kshs. 62,628,920.
2. The application is opposed through a replying affidavit sworn on 14/1/2025 by Sharon Koskei and written submissions dated 17/2/2025. The case of the respondent is that, vide a letter dated 23/10/2024, they requested the taxing officer to provide reasons for the ruling dated 7/10/2024 through which the taxing officer's award was made. They add that to-date, the taxing officer has not furnished them with the reasons. It is their case that failure by the taxing officer to provide the reason(s) for the decision has denied them the right to lodge a reference or pursue an appeal. They contend that they are waiting for the reasons in order to file a reference under rule 11 of the *Advocates (Remuneration) Order*.
3. The Court has considered the application. A plea for judgment of the kind that is sought in the application under consideration is subject to the provisions of the *Advocates Act* and the *Advocates*



(Remuneration) Order. Of significance is that, an application of this nature is supposed to be made in the cause in which the bill of costs was taxed and the certificate of taxation was issued. The present application was brought as a fresh stand-alone miscellaneous application. It is not clear why the advocate elected to initiate a fresh cause yet he had a subsisting cause in which the certificate of taxation was issued.

4. Suffice it to state that, as a result of the decision to initiate a fresh cause, the Court is not seized of the record relating to the cause in which the certificate of taxation was issued. The Court cannot, in the circumstances, interrogate the record to authenticate the allegations made by the respondent. That is not all. The framed prayers do not disclose the cause in which the award of the taxing officer was made.
5. For the above reasons, the court takes the view that the plea for adoption of the award of the taxing officer as a Judgment of this Court should be filed and prosecuted in the cause in which the certificate of taxation was issued. Initiation of a fresh stand-alone miscellaneous application for the purpose of adoption of the taxing officer's award was irregular and cannot be allowed in the circumstances of the present contestation.
6. Consequently, this miscellaneous application is struck out and the applicant is directed to file and prosecute the application for adoption in the cause in which the certificate of taxation was issued. Given the disclosed background of the aborted application, parties will bear their respective costs of this miscellaneous application.

DATED SIGNED AND DELIVERED AT MERU THIS 19TH DAY OF MARCH 2025

B M EBOSO [MR]

JUDGE

In the presence of:-

Ms Kiendi for the Respondent

Mr Nyamu Nyaga for the Applicant

Mr Tupet – Court Assistant

