REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL AND TAX DIVISION

MISC. CIVIL APPLICATION NO. 394 OF 2015

MWANGI CHEGE & C. ADVOCATES.....APPLICANT/RESPONDENT

VERSUS

KENYA BRAODCASTING CORPORATION.....RESPONDENT/ APPLICANT

RULING

1. This ruling relates to a chamber summons application dated 14th June 2018, brought under provisions of; Section 1A & 3A of the Civil Procedure Act, Cap 21 laws of Kenya, Rule 11 (2) of the Advocates (Remuneration) order, 2014, and all other enabling provisions of the law.

2. The Applicant is seeking for orders that: -

a) The Honourable court be pleased to set aside the decision of the taxing officer delivered on 14th May 2018, as far as the same relates to taxation of the items 1 and 2 of the applicant's bill of costs (herein "the bill") ,dated 16th February 2015, the quantum awarded thereon and the reasoning with respect to the said award;

b) The Honourable court be pleased to re-tax items 1 and 2 of the said bill of costs;

c) In the alternative to prayer (b) above, the Honourable court be pleased to remit the bill of costs dated 16th February 2015 for re-taxation of items 1 and 2 thereof, by a different taxing officer with appropriate direction thereafter; and

d) The costs of this application be provided for.

3. The application is supported by an affidavit dated 14th June 2018, sworn by Mercy A. Nyabenge, an Advocate representing the Applicant herein. She deposed that, on the 14th day of May 2018, the taxing officer rendered a decision on the taxation of the bill of costs (herein "the bill"), dated, 16th February 2015, wherein she taxed the bill at; Kshs 100,454,780.00.

4. However, the Respondent is dissatisfied with the decision for the reason that; the learned taxing officer failed to elaborate on how she arrived at; Kshs 50,000,000, as the reasonable instruction fees. Further, the taxing officer failed take into consideration, the nature of the proceedings, complexities and or novelty of the matter or the volume of work done by the counsel.

5. She deposed that, the case involved defamation proceedings, which was dismissed for want of prosecution and therefore no final award was made by the court. The Taxing officer should not have relied on the amount pleaded as the basis of calculating instruction fees, and should have taken into consideration, schedule IV of the Advocates Remuneration (Amendment) Order, make specific provisions for the amount for a suit that was not determined on merit, as herein, and that every case must be decided on its own merit and every variable degree. Finally, it is averred that, the learned Taxing officer took into account irrelevant factors.

6. That, by a letter dated 21st May 2018, the Applicant requested for the reasons of the taxation decision, more so as, the amount read to the parties, when the handwritten ruling was delivered on 14th May 2018, was indicated as, Kshs 100,503,255.45, but subsequently, the taxed amount was stated to be Kshs 100,454,780.00 in the finally typed ruling.

7. That, despite the Applicant following up with the Deputy Registrar and court officials at the registry, to be furnished with the reasons behind the taxation decision, the same were not given, whereupon a reminder letter was send on 13th June 2018. Even then, no reasons were given and the reference was then filed without reasons of taxation decision.

8. The Applicant avers that, the Advocate has already extracted a decree and a certificate of taxation, issued by the Honourable court on 11th June 2018 and may commence the execution process at any time.

9. However, the application was opposed vide a replying affidavit dated 28th June 2018, sworn by the Respondent, Mwangi Chege. He averred that, in the first place, and contrary to the allegations made by the deponent of the supporting affidavit that, the subject of the taxation was not a defamation matter. For the deponent, Mercy A. Nyabenge, to boldly allege that, the matter before the Taxing officer arose from defamation proceedings, demonstrates clearly that, she never read or studied the proceedings before making the allegations as she did.

10. The Advocate/Respondent denied the allegation that, the Taxing officer did not consider the nature of the proceedings, when making the award, nor that, she awarded a high amount without considering that, the matter before her was not dismissed on merit. He further denied that, the award was made, without a demonstration of the complexity and/or novelty of the matter or the work done by the counsel.

11. Further, given the fact that, the application dated 14th June 2018, is based on an alleged defamation case, which defamation case was actually not before the learned Taxing officer, the application is factually and incureably defective.

12. That to the contrary, the proceedings in the main suit, involved the control of the radio and television frequencies and airwaves, switch off of frequency transmitters, confiscation of transmitters and broadcasting equipments, repossession of already allocated frequencies, breach of contract and mandatory injunctions, as regards repossessed frequencies, transmitters and broadcasting equipments.

13. That the suit was novel and complex, therefore, to allege that, the learned taxing officer, gave a high award on instruction fees, without demonstrating the novelty and complexity of the matter and that, it was a defamation case, is itself a demonstration of lack of understanding, of what the case was all about, leave alone appreciating the novelty and complexity of the suit, the Taxing officer was alluding to.

14. The Respondent argued that, the Applicant's counsel in this application was not on record in the suit HCCC No. 15 of 2000, as the attempt to come on record, was thwarted by the Honourable court, when leave was refused, until the advocates/client bill, was taxed and payment made to the advocate. The Respondent averred that, at the very least, what the Applicant's counsel should have done was to read the parent file to know that, the case dismissed, was not for defamation.

15. That, the learned Taxing officer, at page 10, of the ruling, was candid that, she had read the entire pleadings and proceedings in; High Court Civil Case No. 15 of 2000 and formed the view that the matter was novel and complicated. Further, she formed the view that the nature, interest and the importance of the cause to the parties was immense and the advocate put in a lot of work to defend the client.

16. That, it is on record that, the initial order for an injunction was issued at the presiding Honourable Judge's home in Machakos, even before the actual case was filed in the High Court, and the court ordered that, the hearing of the application proceed on day to day basis, and indeed it did, including the week-ends.

17. Further, it was the first time there was a case involving frequencies and confiscation of broadcasting equipment prompting a court to issue an order at home even before the case was filed. That demonstrates the importance and interest of the parties in the matter, supporting the principles enshrined in the authorities the learned Taxing officer quoted.

18. The Respondent further averred that, the learned taxing officer, conducted an in-depth analysis of the re-amended, amended plaint dated 9th may 2001 and was clear in her ruling that, indeed the Plaintiff in; HCCC No. 15 of 2000, had claimed for special damages which from the date of switch off of its transmitters to the date of dismissal of HCCC No. 15 of 2000, amounted to, Kshs 25,646,400,000. The claim for loss of investment was Kshs. 600,000,000, hence the total of Kshs. 26,246,400,000.

19. Further, the learned Taxing officer shows in the ruling that, she read the ruling by; Honourable Lady Justice Koome that made a finding (not appealed) that, going by the pleading, it was determinable the basis upon which the value of the subject matter was to be calculated from the date of filing of the suit at, Kshs 14,400,000 per day, which translated to Kshs 26,246, 400,000, as at the date of dismissal of the suit.

20. That, the instruction fees for a sum of; Kshs 26,246,400,000 as clearly shown in the client bill of costs dated 16th February 2015, was initially filed in Civil Division of the High Court; as Miscellaneous Civil Application No. 84 of 2015, but later transferred to commercial and Admiralty Division as Miscellaneous Civil Application No. 394 of 2015 for Kshs. 400,000,000. That, upon dismissal of HCCC No. 15 of 2000, the Applicant, filed a party and party bill of costs, against the Plaintiff Royal Media services Limited and claimed a sum of; Kshs 400,000,000 as instruction fees, in its party and party bill of costs dated 6th October 2005.

21. The party and party bill of costs has not been taxed to date but the fact of the matter is that, the advocate's claim is based on the re-amended, amended plaint which accords well with schedule 6 Rule 1(b) of Advocates (Remuneration) (Amendment) Order and the principles in *Joreth Limited –vs- Kigano & Associates (2002) EA 92*. It is manifestly clear from the pleadings that, the advocate was instructed to defend a claim whose instructions fees as demonstrated and admitted by the Applicant is, Kshs 400,000,000.

22. However, the Applicant has turned around and advanced the argument that, the instruction fees is not determinable, even when it has claimed Kshs 400,000,000, in its party and party bill of costs and ruling, by Honourable Lady Justice Koome is clear. The learned Taxing officer did not determine, the instruction fees on the basis of; Kshs 400,000,000, but followed the law and principles in; *Joreth Limited –vs- Kigano & Associates(supra)*, *Republic –vs- Minister for Agriculture & others, Ex-parte Samuel Muchiri Njuguna & 6 Others (2006) eKLR*, *Premchad Raichand Ltd & Another –vs- Quarry Services (1972) EA 162*, *Kassim –vs- Habre International Limited(2000) EA 98*, *Asea Brown Boveri Limited –vs- Banazir Glass Works ltd & Another (2005) EA 17* and *Trade Bank Limited (inliquidation –vs- LZ Engineering Construction & Another CA No. Nairobi 117 of 2007*, and the pronouncements and principles of law contained therein, before making her determination.

23. Further, the Taxing officer gave reasons on how she assessed the instructions fees of Kshs 50,000,000. That, under Schedule 6 Rule 2 of the Advocates (Remuneration) Order, states that, the getting up fees shall not be less than one third of the instruction fees. It is clear from the learned Taxing officer's ruling that, she followed these provisions of law. Therefore, the application dated 14th June 2018 herein lacks merits. The learned Taxing officer's ruling in respect of the instructions and getting up fees should not be disturbed.

24. However, the Applicant filed a supplementary affidavit dated 16th July 2018, sworn by Mercy A. Nyabenge, wherein she apologized, for having stated that, the subject matter in dispute before the court was one of defamation. It was an inadvertent mistake of counsel which the court should not visit upon the client and not intentional and neither was it made to mislead the court.

25. The plaintiff sought for orders of; injunctions against interference with their equipment and transmitters; general damages and special damages for; loss of revenue as pleaded, amounting to a total sum of Kshs 25,646,400,000. The Honourable court should therefore, determine the application on merit and consider the position as clarified, as the Respondent will not suffer prejudice.

26. The application was disposed of by the parties filing written submissions. The Applicant submitted that, the Taxing officer started off well in the ruling, by appreciating the principles set down in; *Joreth Limited vs Kigano & Associates (2002) E.A. 92 CAK and in Preimchand Raichand Ltd & Another vs Services of East Africa Limited & Another (1972) E.A. 1623* among other cases, that guide the court while exercising her discretion in taxing costs.

27. That, at page 8 of the ruling, the learned Taxing officer stated "that the said amount pleaded as special damages remained to be proved and its award would depend on the discretion of the court". This clearly shows that, she was in agreement that, Kshs. 26 billion was not ascertained as the suit was not determined on merits but was instead dismissed for want of prosecution, hence the application of sub paragraph (L) of paragraph 1 of Part A of Schedule 6 of the Advocates (Remuneration) (Amendment) Order 1997.

28. However, in a speedy conclusion, the learned Taxing officer, proceeded to conclude that, a sum of Kshs. 50,000,000, is reasonable as instruction fees without laying any justifiable reason for reaching the said figure, but merely stated that, the proceedings were novel and required a lot of input to defend, as the reason why she made an award of Kshs. 50,000,000.

29. The Applicant further submitted that, the mere fact that, hearings proceeded even over the weekend is not necessarily indicative of the complexity of the matter, as it may well be indicative of the various advocates' unfamiliarity with a given area of law and such unfamiliarity should not be turned into an advantage against the client.

30. Finally, it was submitted that, the Honoruable court will only interfere with the decision of the Taxing officer, where there is an error of principle and only in exceptional cases. The Applicant relied on the cases of; *Republic vs Minister of Agriculture & 2 Others exparte Samuel Muchiri W. Njuguna & 6 Others (2006) eKLR,* and *First American Bank Kenya vs Shah & Others (2002) 1 EA 64*. That, the party and party bill of costs was taxed at; Kshs. 394,004,112, by Hon. Mr. S.A. Okato, but was set aside and re-taxed to a sum of Kshs 1,000,000 against which a reference has been filed and it is still to be determined. Therefore, it cannot be a basis of assessing the costs in the advocate/client bill of costs.

31. However, the Respondent submitted that the taxing officer is emphatic in her ruling at page 10 line 4 that, she read the entire pleadings and proceedings in; HCCC No. 15 of 2000 and was able to discern that, the matter was novel and complicated. She was of the view that, the nature, interest and importance of the matter to the parties was immense. That, the advocate indeed put in a lot of work to defend the Applicant. Further, following the decision by Honourable Lady Justice Koome, she found that the subject matter in HCCC No. 15 of 2000 was undeterminable. But, she still found that, the matter was novel, heavy in terms of damages sought, complicated and critically important to the parties.

32. That, the Taxing officer did not use the party and party bill of costs to assess the bill but exercised her discretion following the principles laid down in the case of; *Premchand Raichand Ltd & Another v. Quarry Services of East Africa Ltd & Another [1972] E.A. 162,* and assessed the instructions fees as Kshs. 50,000. That, the Applicant fails to understand that, instructions fees is earned in full once a defence has been filed and subsequence progress of the matter is irrelevant to the item of instruction fees as held in the case of; *First American Bank of Kenya vs Shah & Others (2002) 1EA 64.*

33. The Respondent further submitted that, the Applicant's counsel did not read the proceedings in HCCC No. 15 of 2000 and that is why she deposed that, the proceedings therein related to a defamation suit. That had she read the proceedings in that file, she would have been able to appreciate that, the matter was indeed novel and complex. Further, there are cogent or legitimate grounds advanced by the applicant to fault the decision of the taxing officer or to set it aside or to allege that, the award of Kshs. 50,000 is unreasonable.

34. Finally, the Respondent argued that, Schedule VI of the Advocates Remuneration Order is clear that, the getting up fees shall not be less than one third of the instruction fees. The Taxing officer relied on the same and did not make any error of principle. That it is within the law for the Taxing officer to increase the sum of the instructions fees and getting up fees together with other items by 50% as provided for under Schedule VI (B) of the Advocates (Remuneration) (Amendment) Order. The final figure awarded was Kshs. 100,454,780 and not Kshs. 100,503,255.45 as purported by the Applicant in its submissions.

35. I have considered the arguments advanced herein and the submissions and I find that, the question to determine is whether the Taxing officer committed an error of principle, to warrant the setting aside of the taxation decision. I have gone through the ruling delivered by the learned Taxing officer on 14th May 2018 and I find that, she states at page 4; "the suit was dismissed for want of prosecution. Therefore the value of the subject matter could not be ascertained from the judgment or settlement. The pleadings will provide the answer."

36. The Taxing officer considered the ruling delivered in HCCC No. 15 of 2000, by Hon Lady Justice M. Koome, on 17th September 2010, whereby the court observed that: -

"*It was highly unlikely and impossible for the court to award special damages of Kshs 26 billion. Going by the principal that, a party is supposed to litigate their losses and that the award should resonate with economic reality of the country."*

37. She then states at page 9 of the ruling that "it is therefore obvious that the value of the subject matter in the case cannot be ascertained from the pleadings." The taxing officer then concluded that; "the value of the subject matter, cannot be ascertained from the pleadings and consequently sub paragraphs (c), (d) and (e) of paragraph 1 of; part A of schedule 6 of the Advocates Remuneration (Amendment) Order 1997, could not be applied to assess the advocates' instructions fees." She then stated that, the applicable provision is sub paragraph (L) which provides that, "to sue or defend in any case not provided for above, such sum as may be reasonable but not less than Kshs. 6,000."

38. She further stated that, "having settled as aforesaid, the calculation of the applicant's instruction fees will be guided by the Court of Appeal's decision in, *Joreth's Limited vs Kigano Associates (2002) EA 92 (CAK)*. Finally she states at page 10 the ruling as follows; -

"*I have read the pleadings and the proceedings in HCCC 15 of 2000. Though the matter was dismissed, for want of prosecution, the initial proceedings indicate that the matter was indeed novel and complicated. Part of the proceedings were taken during the weekends. The applicant indeed put in a lot of work to defend the Respondents. The nature the interest and the importance of the cause to the parties was immense. I assess the instruction fees due to the applicant for work done on behalf of the respondent at Kshs 50,000,000."*

39. She taxed off a sum of Kshs. 350,000,000; then awarded getting up fees, being a third of the instruction fees, as Kshs 16,666,666. All other items were found to have been drawn to scale and the resultant figure awarded came to Kshs. 100,454,780.

40. I note from the affidavit in support of the application that the applicants aver that the Taxing officer failed to elaborate on how she arrived at a figure of Kshs. 50,000,000.

41. Having considered the findings of the Taxing officer, I note that, first and foremost, it is settled law that, a court will not **interfere with the taxing officer's decision on taxation, unless it is shown that, either the decision was based on an error of principle, or the fee awarded was so manifestly excessive as to justify an inference that, it was based on an error of principle, as held in; *F*irst American Bank of Kenya v. Shah & Others** (2002) 1 E.A. 64.

42. Similarly, it was held in the case of; *Haider bin Mohamed el Mandry & 4 Others v. Khadija Binti Ali Bin Salem alias Bimkubwa (1956) 23 EACA 313* that, where the instruction fee was taxed at a level so grossly excessive as to betoken the application of wrong principles, it is an occasion for a Judge to intervene.

43. Further *Spry, V-P.* held in the case of; *Premchand Raichand Ltd & Another v. Quarry Services of East Africa Ltd & Another (supra)* at page 164 that:-

"*The taxation of costs is not a mathematical exercise; it is entirely a matter of opinion based on experience. A court will not, therefore, interfere with the award of a taxing officer, and particularly where he is an officer of great experience, merely because it thinks the award somewhat too high or too low: it will only interfere if it thinks the award so high or so low as to amount to an injustice to one party or the other."*

44. *However, the rational of the exercise of judicial discretion of the Taxing officer* was well considered by the court in the case of; *Republic vs Minister of Agriculture & 2 others ex parte Samuel Muchiri W Njuguna ^ 6 Others (2006) eKLR,* as an aspect of judicial decision-making, to be conducted *regularly*, and guided by *principles*, the *elements* of which are clearly stated and which are logical and conscientiously conceived. It is not enough to set out by attributing to oneself discretion originating from legal provision, and thereafter merely cite wonted rubrics under which that discretion may be exercised, as if these by themselves could permit of assignment of mystical figures of taxed costs.

45. *The court in the same case further stated as follows;-*

"*Regularity in this respect cannot be achieved without upholding fairness as between the parties; the taxing officer is to provide only for reasonable compensation for work done; the taxing officer should avoid the possibility for unjust enrichment for any party and ought to refuse any claim that, tends to be usurious; so far as possible, the taxing officer should apply the test of comparability; the taxing officer should endeavour to achieve objectivity when considering ill-defined criteria such as public policy, interests affected, importance of matter to parties, or importance of matter to the public; the taxing officer should clearly identify any elements of complexity in the issues before the court – and in this regard should revert to the perception and mode of analysis and determination adopted by the trial judge; the taxing officer ought to describe accurately the nature of the responsibility which has fallen upon counsel; the taxing officer should state clearly the nature of any novel matter in the proceedings; the taxing officer should determine with a measure of accuracy the amount of time, research and skill entailed in the professional work of counsel".*

46. In summation, while referring the bill for taxation afresh before a different Taxing officer, the court laid down the following guiding principles: -

*a) **the proceedings in question were purely public-law proceedings and are to be considered** entirely free of any private - business arrangements **or earnings of the tea production sector;***

*b) **the taxation of advocates' instruction fees is to seek no more and no less than** reasonable compensation for professional work done**;***

c) ***the taxation of advocates' instruction fees should avoid any prospect of*** *unjust enrichment****, for any particular party or parties;***

d) ***so far as apposite,*** *comparability* ***should be applied in the assessment of advocate's instruction fees;***

e) ***objectivity is to be sought, when applying loose-textures criteria in the taxation of costs;***

f) ***where*** *complexity* ***of proceedings is a relevant factor, firstly, the*** *specific elements* ***of the same are to be identified and stated; and secondly, complexity is to be judged on the basis of the express or implied recognition and*** *mode of treatment by the trial Judge;*

g) where *responsibility* ***borne by advocates is taken into account, its nature is to be specified;***

h) ***where*** *novelty* ***is taken into account, its nature is to be clarified;***

i) ***where account is taken of*** *time spent, research done, skill deployed* ***by counsel, the pertinent details are to be set out in summarized form.***

47. To revert back to the matter herein, I note that the Taxing officer at pages 2-4 of the ruling makes references to several authorities that guides inter alia; the factors that will be taken into account in taxing a bill. However, I note that, when it came to assessing the instructions fees, she simply made reference to the pleadings in HCCC No. 15 of 2000 and observed that it was indeed novel and complicated and awarded the subject sum.

48. The amount herein is by all means quite substantial. If the same has to be upheld, then it must be demonstrated that the Taxing officer indicated with clarity how the Respondent imparted his skill and expended his labour in the matter HCCC No. 15 of 2000, and how she eventually arrived at the conclusion that the matter was novel and complicated.

49. I have personally read through the proceedings in HCCC No. 15 of 2000 and I note inter alia that, the matter commenced with a certificate of urgency dated 27th January 2000. Upon considering the same, the court ordered that, it be served and upon service the Respondent herein sought for leave of seven (7) days to put in a replying affidavit but was only granted a limited time of three (3) days for the same as the matter was urgent. It is also evident that the proceedings in relation to the subject application took about three (3) weeks from 8th January 2000 to 21st January 2000 and the record thereof is contained in ninety (90) typed pages. The decision of the Judge rendered on 29th February 2000, is contained in thirty four (34) pages. In fact the Judge remarked that, he had taken three (3) weeks to hear the matter causing great hardship to other litigants, and at one time the Judge ordered the parties to be heard on 19th February 2000 which was on a Saturday. I also note from the record that, at one time the matter was referred to the Honourable the Chief Justice (as he then was) to appoint a Judge and in a letter dated 7th June 2001, the Honourable the Chief Justice remarked that the matter raised issues of Constitutional significance.

50. It is also noteworthy that, subsequent to the dismissal of the suit, the Respondent filed party and party bill of costs, on 6th October 2005. The decision of taxation thereof was rendered on 4th May 2009 and the application to set aside filed on 23rd July 2009 and 31st July 2009, and eventually the decision set aside on 17th September 2010. Upon referral of the party and party bill of costs and the taxation, a decision was rendered by the Taxing officer on 13th February 2013 which decision was also set aside by the court on 13th February 2019. I have given the historical background in this matter to show inter alia, that the Respondent has been seized of this matter for the last twenty (20) years and this is the kind of analysis that the Taxing officer should be able to clearly indicate in their decision to justify any sum of money that is awarded and to enable the parties appreciate how the same is arrived at. That does not seem to have been done herein.

51. As stated in the case of; Premchand Raichand Limited (supra) basic principles of taxation are;-

(a) That costs should not be allowed to rise to a level as to confine access to justice as to the wealthy;

(b) That a successful litigant ought to be fairly reimbursed for the costs he has had to incur;

(c) That the general level of remuneration of Advocates must be such as to attract recruits to the profession and

(d) So far as practicable there should be consistency in the award made and

(e) The court will only interfere when the award of the Taxing officer is so high or so low as to amount to an injustice to one party.

52. *In my considered opinion, taking into account* **the amount or value of the subject matter involved in the original file, the interest of the parties, the general conduct of the proceedings as stated herein and the duration the matter has taken, it is evident that the Respondent has expended considerable amount of time and work into the matter. However, the costs that would be allowed must still be reasonable.**

53. The Applicant is a state organization and payment of the sum awarded would definitely bring its operations to a hold if not send it into insolvency status. As much as the Respondent is entitled to payment of the legal services rendered, in that regard and based on the reasons stated herein, I will allow the application to set aside the decision. The next question is whether the court should re-tax the bill or send it to another Taxing officer. It was held in the case of; Steel Construction Petroleum Engineering (EA) Limited vs Uganda Sugar Factory, the High court can re-assess a bill but the normal practice is to remit it to the Taxing officer for re-taxation unless the court is satisfied that the

error did not materially affect the assessment. (See also; Nanyuki Esso Services vs Touring and Sports Caps Limited (1972) and Thomas James Urther vs Nyeri Electricity Undertaking (1961) EA 492, where it was held that the questions solely of quantum are regarded as matters which the Taxing officer are particularly fitted to deal.

54. In conclusion, I find and hold that, it will not be in the interest of justice for the court to re-tax the bill. I therefore order that the bill be re-taxed afresh before another Taxing officer based on the guidelines given herein. However, it was very evident that, the Applicants were not able to clearly state the particular errors of principle committed by the Taxing officer. They merely attacked the decision on general allegations without substantiating the same. The consequence thereof is that, I do not award them any costs. In the same vein, it is unjust for a party who has offered legal services which is the main source of income to be kept off the same for a period of twenty (20) years. If the Applicant is not keen to pursue the reference on party and party bill of costs, then that should not be visited upon the Respondent.

55. In that regard the order I have issued setting aside the Taxing officer's decision shall be conditional upon the Applicant paying the Respondent a sum of Kshs. 5,000,000 within a period of forty five (45) days from the date of this order pending the hearing and determination of the re-taxed bill.

56. Those then are the orders of the court.

Dated, delivered and signed in an open court, this 28th day of April 2020.

G.L. NZIOKA

JUDGE

In the presence of;

Delivered by email

……..for the Applicant

…….....for the Respondent

……Court Assistant