



REPUBLIC OF KENYA



KENYA LAW

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**Mungania v Muthuri t/a Gichunge Muthuri & Company Advocates
(Environment and Land Miscellaneous (Reference) Application
E028 of 2024) [2025] KEELC 1393 (KLR) (17 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1393 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND MISCELLANEOUS
(REFERENCE) APPLICATION E028 OF 2024**

BM EBOSO, J

MARCH 17, 2025

BETWEEN

ERNEST MUNGANIA APPLICANT

AND

**GICHUNGE MUTHURI T/A GICHUNGE MUTHURI & COMPANY
ADVOCATES RESPONDENT**

RULING

1. Before court for determination is a chamber summons dated 25/7/2024, brought by Ernest Mungania. Through it, he seeks: (i) an order staying execution of the ruling/decision of the taxing officer rendered on 4/7/2024 in Meru ELC Land Miscellaneous Application No. E005 of 2024; (ii) an order validating the notice of objection dated 22/7/2024; and (iii) an order validating the reference “filed” with the said application.
2. The application was canvassed through written submissions before Yano J last year. However, the Learned Judge did not render a ruling on it. When the matter was listed before him on 16/12/2024, he made the following order:

“Since this Court is on transfer, mention on 3/2/2025 before the incoming judge to fix a date for ruling.”
3. It is against the above background that the parties invited the Court [Eboso J] to render a ruling on the application.
4. The application was premised on the grounds set out on the face of the chamber summons and in the applicant’s two affidavits dated 25/7/2024 and 19/11/2024 respectively and in his written submissions



dated 29/11/2024. The application was opposed through the respondent's affidavit dated 9/9/2024 and written submissions dated 6/11/2024.

5. The court has considered the application, the response to the application and the parties' respective submissions. The cause falling for determination in this ruling is Meru ELC Land Misc. Application No. E028 of 2024. It was instituted as a fresh stand-alone cause. Through it, the applicant essentially wants an order enlarging the time within which to lodge a notice of objection and a reference relating to the ruling/decision of the taxing officer rendered on 4/7/2024 in Meru ELC Land Miscellaneous Application No. E005 of 2024. He also seeks an order of stay of execution of the award made in the said cause.
6. Meru ELC Land Miscellaneous Application No. E005 of 2024 is a different cause that is before this Court. The impugned decision was made by the taxing officer of this court in the said cause. The objection contemplated under rule 11(1) of the *Advocates (Remuneration) Order* is required to be filed in the cause in which the taxation decision is made. Similarly, the reference contemplated under rule 11 (2) is required to be filed in the cause in which the impugned decision is made. Thirdly, the application seeking adoption of the award of the taxing officer as a judgment of the court is required to be filed in the cause in which the award is made because that is an award made in a cause that exists in the same court. Lastly, a plea for enlargement of time or for stay of execution is required to be made in the cause in which the impugned decision is made.
7. For reasons that are unclear to this court, the applicant brought a fresh cause seeking orders relating to a different existing cause. This is clearly irregular. That is not the only defect in the application. The prayer for an order of stay of execution does not specify the necessary particulars of the ruling that is to be stayed. Similarly, the prayer for an order validating the notice of objection does not contain the necessary details of the decision and the cause it relates to. Similarly, the plea for an order validating the reference does not contain the details of the decision and the cause it relates to. All the above orders are sought in a fresh cause.
8. For the above reasons, it is the finding of this court that this miscellaneous application is fatally defective and stands to be struck out without venturing into the merits of the prayers sought in it. It is so ordered.
9. In line with the general principle in section 27 of the *Civil Procedure Act*, the applicant shall bear costs of the application.

DATED, SIGNED AND DELIVERED AT MERU THIS 17TH DAY OF MARCH 2025

B M EBOSO[MR]

JUDGE

In the Presence of

Mrs Bundi for the Applicant/Client

Ms Mugo for the Advocate

Mr. Tupet – Court Assistant

