



Mwangi v Mudogo & 5 others (Environment and Land Miscellaneous Application E139 of 2021) [2023] KEELC 21004 (KLR) (26 October 2023) (Ruling)

Neutral citation: [2023] KEELC 21004 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E139 OF 2021
AA OMOLLO, J
OCTOBER 26, 2023**

BETWEEN

JANE WAIRIMU MWANGI APPLICANT

AND

JUMA LUANDE MUDOGO 1ST RESPONDENT

MICHAEL NJENGA WAWERU 2ND RESPONDENT

BENARD SIKEWA 3RD RESPONDENT

COSMAS M MUTAVA T/A MARGO SECURITY SERVICES .. 4TH RESPONDENT

CHIEF LANDS REGISTRAR 5TH RESPONDENT

ATTORNEY GENERAL 6TH RESPONDENT

RULING

1. The plaintiff/applicant brought the Chamber Summons application dated 10th February, 2023 pursuant to rule 11 of the [Advocates \(Remuneration\) Order](#). The orders sought are;
 - i. That the Ruling of Hon. I. N. Barasa, the Taxing Officer delivered on 25th January, 2023 pursuant to the Party and Party Bill of Costs taxing the Bill in the sum of Kshs.322,870/= be set aside in its entirety and/or vacated.
 - ii. That the decision of the Taxing Officer as evidenced in the ruling delivered on 25th February, 2023 with respect to item 1 of the Party and Party Bill of Costs in dated 4th October, 2022 be remitted back for taxation before any other Taxing Officer other than Hon. I. N. Barasa.
 - iii. That in the alternative, this Honourable Court be pleased to order the Party and Party Bill of costs with respect to item 1 be taxed afresh by another taxing officer.



2. Directions was taken that the application be prosecuted by way of written submissions. The Applicant filed her submissions dated 5th May, 2023 while the Respondents did not file any submissions. I have read and considered the issues raised in the grounds in support of the application and also the submissions.
3. The Applicant has issues with the amounts taxed in respect to;
 - a. Instructions fees
 - b. Items 7, 11, 13 and 18 of the bill.
4. The Deputy Registrar taxed the instructions fees at Kshs.300,000. She stated that the Remuneration order provided for such sum as may be reasonable but not less than kshs.75,000/= in defended proceedings such as these but still proceeded to tax the instructions fees at Kshs.300,000. The proceedings being defended was an the application seeking orders to transfer Milimani CMCC E455 of 2011 and CMCC E8676 of 2021 to the Environment and Land Court, Milimani for want of jurisdiction, and to consolidate the these two suits with Nairobi ELC 183 of 2021.
5. The deputy registrar did not state that the application was complex that would warrant awarding costs beyond that which is provided for in the higher scale of the Remuneration Order. Under schedule 6 of the Remuneration Order (2014), costs for other matters not provided for under paragraph 1(a) if defended is put at Kshs.75,000/=. Therefore, the instructions fee ought to have been taxed at Kshs.75,000/=. No getting up fee was awarded since no preparation for hearing was required to prosecute an application.
6. Consequently, I proceed to set aside the order taxing the instructions fee at Kshs 300000 and instead tax the instruction fee at Kshs 75000 as provided for under Schedule 6. Items 7 is reduced/taxed at Kshs.3,000; item 11, 13, 17 and 18 remain as taxed by the Deputy Registrar.
7. Consequently, the reference is allowed on terms that the Respondents bill is taxed at Kshs.95,570/=.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF OCTOBER, 2023

A. OMOLLO

JUDGE

