



**Kenya Power & Lighting Company v Kang’ethe & Company Advocates & another  
(Miscellaneous Civil Application 6 of 2024) [2025] KEELC 3776 (KLR) (5 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3776 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
MISCELLANEOUS CIVIL APPLICATION 6 OF 2024  
LC KOMINGOI, J  
MAY 5, 2025**

**BETWEEN**

**KENYA POWER & LIGHTING COMPANY ..... APPLICANT**

**AND**

**KANG’ETHE & COMPANY ADVOCATES ..... 1<sup>ST</sup> RESPONDENT**

**EUNICE NKIROTE RINGERE ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. This is the Ruling in respect of the Chamber Summons dated 25<sup>th</sup> September 2024 brought under Section 1A, 1B and 3A of the Civil Procedure Act Cap 21 Laws of Kenya, Paragraph 11 (2) of the Advocates Remuneration Order, Order 40 Rule 1(a) of the Civil Procedure Rules, 2010 and Article 159 (2) of the Constitution of Kenya 2010.
2. It seeks orders that;
  - i. Spent
  - ii. Spent
  - iii. This Honourable Court be pleased to grant leave to Applicant to file a Reference against the Taxing Master’s Ruling of 6<sup>th</sup> May 2024 out of time.
  - iv. Upon hearing and determination of the Reference, the Ruling delivered by the Taxing Master on 6<sup>th</sup> May 2024 and subsequent Decrees in Kajiado ELC Miscellaneous Applications No. E010 & E011 of 2021 be set aside.
  - v. Upon hearing and determination of the Reference, the Respondents Bills of Costs dated 21<sup>st</sup> February 2022 and 22<sup>nd</sup> February 2022 be struck out.
  - vi. Costs of this Application be provided for.



3. The grounds are on the face of the Application and are set out in paragraphs 1 to 9. The Application is supported by the Affidavit of Kelvin Mwaniki, Advocate for the Applicant sworn 25<sup>th</sup> September 2024.
4. The Application is opposed. There are grounds of oppositions and a Replying Affidavit dated 24<sup>th</sup> October 2024 by the Respondents.
5. On the 3<sup>rd</sup> of December 2024, the Court directed that the Notice of Motion be canvassed by way of written submissions.
6. I have considered the Notice of Motion, the Affidavit in support, the Response thereto, the rival submissions and the authorities cited. The issue for determination is whether this application is merited.
7. It is the Applicant's case that they have established good and substantial reasons for the failure to file a reference in good time. It has put forward the case of *Tom Ojienda & Associates VS Nairobi City County* [2021] eKLR.
8. It urges the Court to grant it an opportunity to file a reference against the decision of the Taxing Master. It has put forward the case of *Paul Wanjohi Mathenge VS Duncan Gichane Mathenge* [2013] eKLR.
9. The Respondents on the other hand claim that the Applicant was aware of the taxation proceedings in Court. Further, that the Applicant has not given any justifiable explanation for the inordinate delay in filing a reference against the Ruling of the Taxing Master.
10. I have considered the reasons given for the delay in filing the reference and I find that it is justifiable. The Applicant deserves an opportunity to contest the Bill of costs.
11. I find merit in this application and the same is allowed.
12. I hereby grant the orders sought namely;
  - a. That leave is hereby granted to the Applicant to file a reference out of time against the Ruling of the Taxing Master dated 6<sup>th</sup> May 2024.
  - b. That the Ruling of the Taxing Master dated 6<sup>th</sup> May 2024 is hereby stayed pending the hearing and determination of the intended reference which should be filed within twenty one (21) days from the date of this ruling.
  - c. That costs of this application be borne by the applicant.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 5<sup>TH</sup> DAY OF MAY 2025.**

**L.KOMINGOI**

**JUDGE**

In the presence of:

For the Applicant

For the Respondents

Court Assistant: Mutisya

