



**Nyamu t/a Nyamu Nyaga & Company Advocates v Meru University of
Science & Technology (Environment and Land Miscellaneous Application
E017 of 2022) [2025] KEELC 5355 (KLR) (14 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5355 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E017 OF 2022**

BM EBOSO, J

JULY 14, 2025

BETWEEN

**DESDERIO NYAGA NYAMU T/A NYAMU NYAGA & COMPANY
ADVOCATES APPLICANT**

AND

MERU UNIVERSITY OF SCIENCE & TECHNOLOGY RESPONDENT

RULING

1. What falls for determination in this ruling is the applicants' notice of motion dated 21/3/2025. 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 costs dated 12/11/2024 plus interest at 14% per annum with effect from 7/10/2024 until payment in full. The applicant also seeks costs of the application.
2. The application is supported by the affidavit of Desderio Nyaga Nyamu, sworn on 21/3/2025 and his supplementary affidavit dated 22/4/2025. The application was canvassed through written submissions dated 23/4/2025, filed by the firm of Nyamu Nyaga & Co. Advocates. The applicant's case is that, on 17/10/2022, he filed an amended advocate/client bill of costs, dated the same day, against the respondent. The said bill of costs arose from legal services rendered to the respondent in Meru ELC Constitutional Petition No. 22 of 2013, which petition was determined in the respondent's favour. He sought Kshs 77,438,552 as his costs from the respondent.
3. The applicant states that he duly served the said amended advocate/client bill of costs to the respondent. The respondent opposed the said bill of costs and the bill was subsequently taxed vide a ruling delivered on 3/2/2023. Dissatisfied with the taxing officer's ruling, he [the advocate] filed an objection under rule 11(1) of the Advocates (Remuneration) Order. After receiving reasons from the taxing officer, he filed a reference, to wit, Meru ELC Misc. Application Case No E009 of 2023, as



provided in rule 11(2) of the Advocates Remuneration Order, which he duly served on the respondent. The said reference was heard and a ruling was delivered on it on 2/11/2023, wherein the court (Yano, J) ordered that the amended advocates/client bill of costs was to be taxed a fresh by a different taxing officer and that the advocate's instructions fee was to be based on the value of the subject matter of the petition in which he [the advocate] rendered services, which was Kshs. 2,200,000,000/=.

4. The applicant states that the respondent did not file an appeal in the Court of Appeal to challenge the court's ruling delivered on 2/11/2023. They instead applied for a review of the said ruling dated 2/11/2023 in Meru ELC Misc. Application No. E009 of 2023. Upon hearing the application, the court (Yano J) dismissed the plea for review of the ruling. The respondent did not appeal against the said ruling delivered on 11/7/2024.
5. The applicant states that the amended bill of costs was subsequently taxed by a different taxing officer at Kshs. 62,628,920/=, adding that the taxing officer issued a certificate of costs dated 12/11/2024. The respondent never filed an objection as provided under rule 11(1) of the Advocates (Remuneration) Order to challenge the award of the taxing officer. Consequently, no application is pending before the court challenging the certificate of costs issued by the taxing officer on 12/11/2024.
6. The applicant contends that it is over four months since the taxing officer made her ruling on the amended advocate/client bill of costs and over three months since the certificate of costs was issued, adding that the respondent has never made any effort to satisfy the award. He states that it is just and fair that the award of the taxing officer be adopted as a judgment of this court so that he can enforce it to recover his costs. It is the applicants' case that since 17/10/2022 when he filed the amended bill of costs, the matter has been pending for over two (2) years at the instance of the respondent, adding that parties cannot be in court forever.
7. The respondent opposed the application through a replying affidavit sworn on 11/4/2025 by Sharon Koskei and written submissions dated 17/4/2025, filed by Kimani Mwangi Advocates LLP. The case of the respondent is that the chronology of events as enumerated in paragraphs 1 to 11 of the applicant's supporting affidavit, is correct. They contend that they lodged a notice of appeal intimating their intention to lodge an appeal in the Court of Appeal against this court's ruling dated 11/7/2024 and at the same time requested for typed proceedings. They further contend 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.
8. It is the respondent's 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. Ms Koskei who swore the replying affidavit contended thus:

“6. That to the best of my knowledge it is this honourable court that has denied the respondent herein the right to pursue an appeal by delaying the administrative procedure by not providing the necessary signed notice of appeal to date.

9. The respondent states that the court ought to decline the invitation for entry of judgement until the court's administrative hitches are resolved. The respondent states that the applicant filed a similar application, to wit, Meru ELC Misc. Application No. E048 of 2024, which was struck out vide a ruling delivered on 19/3/2025. The respondent adds that the court ought to hold in abeyance the element of accrual of interest until judgment has been entered.



10. The court has considered the application and the response to the application. The court has also considered the relevant legal frameworks and jurisprudence. The three questions that fall for determination in the application are:
 - (i) Whether at this point there are proper grounds for staying disposal of the applicant's plea for entry of judgment in terms of the certificate of taxation /costs issued by the taxing officer of the court;
 - (ii) Whether judgment should be entered in favour of the applicant in terms of the certificate of taxation/costs; and
 - (iii) Whether the applicant should be awarded interest as prayed. The three questions will be disposed sequentially in the above order.
11. At this point, the two grounds upon which the respondent is urging the court not to enter judgment against them in terms of the taxing officer's award are:
 - (i) they lodged a notice of appeal against the ruling of this court (Yano, J) dated 11/7/2024 and they at the same time requested for typed proceedings but the court has failed to issue them with a signed notice of appeal and typed proceedings to enable them progress their appeal; and
 - (ii) they requested for the taxing officer's reasons for the decision dated 7/10/2024 but the court has failed to provide the reasons to them to enable them pursue objection mechanisms under rule 11 of the Advocates Remuneration Order. They urge the court to decline entry of judgment at this point pending the resolution of the above administrative hitches.
12. The applicant does not agree with them on the above grounds. He faults them for requesting for reasons after expiry of the statutory period of 14 days.
13. The court has considered and reflected on the grounds advanced by the respondent. The court has also perused its physical record and its electronic record. The notice of appeal was properly lodged electronically through the CTS. The physical file bears the notice of appeal which was duly signed in triplicate. All the three copies are in the court file. It is not clear why the respondent has not collected the duly signed notice of appeal.
14. Secondly, the physical file bears typed proceedings. It is also not clear why the respondent has not accessed the typed proceedings yet the court file contains typed proceedings.
15. Thirdly, the exhibited request for reasons for the decision of the taxing officer is not traceable in the CTS. It is also not traceable in the physical file. The exhibited copy of the request bears the personal email of the taxing officer (the Deputy Registrar). If the request was emailed to the said personal address of the taxing officer without being uploaded on the CTS, it is unlikely that it would attract the attention of the taxing officer.
16. The picture which the respondent has projected is that the court has made it impossible for them to pursue appeal and objection mechanisms against the two rulings. It is not clear why that would be the case. Suffice it to state that, the two Judges at Meru Environment and Land Court joined the Station in mid -January, 2025. The allegations made by the respondent against the administrative wing of the court have not been brought to the attention of the Judges. It is not lost to the court that access to justice is a key and highly guarded pillar of Kenya's Justice System. For this reason, any obstacle in the path of access to justice cannot be countenanced by the court. Similarly, the court will not allow the administrative wing of the Judiciary to be a scapegoat for what may well be a case of lethargy on part of a litigant.



17. To disabuse the notion that the court is frustrating the respondent's appeal and objection mechanisms, the court will accept the respondent's plea to stay disposal of the application seeking entry of judgment. The stay will be for a limited period of 120 days, during which period the respondent will be expected to pursue appeal and objection mechanisms within the relevant courts. In addition, the court will issue directions which the Deputy Registrar of the court should implement forthwith.
18. In the end, the court finds that there is a proper ground for staying the merit disposal of the applicant's plea for entry of judgment as per the certificate of taxation/costs. In the circumstances, there will be no merit pronouncement on the second and third issues at this point.
19. Consequently, the application dated 10/7/2025 is disposed as follows:
 - a. Proceedings relating to adoption of the award of the taxing officer as a judgment of this court are stayed for 120 days from today.
 - b. The respondent shall avail themselves in the Court Registry forthwith and the Court Registry shall release to them the signed notice of appeal immediately. In addition, the Court Registry shall upload the signed notice of appeal on the CTS immediately.
 - c. The Court Registry is directed to assess the final court fees payable on the request for typed and certified proceedings and advise the respondent through the CTS within 2 working days. The Court Registry shall avail to the respondent the said proceedings within 24 hours of paying the requisite fee.
 - d. The respondent shall upload into the CTS the letter dated 23/10/2024 forthwith and the taxing officer of the court shall act on it immediately.
 - e. The applicant shall be at liberty to bring a fresh application after expiry of the 120 days.
 - f. In the view of the circumstances culminating in the above disposal orders, there will be no award of costs.

DATED, SIGNED AND DELIVERED AT MERU THIS 14TH DAY OF JULY, 2025.

B M EBOSO [MR]

JUDGE

In the Presence of

Mr Nyamu Nyaga for the Applicant

Ms Kiendi holding brief for Mr. Kimani for the Respondent

Court Assistant - Tupet

