



**Billy Amendi & Company Advocates v KEMRI Staff Retirement
Benefit Scheme (Environment and Land Miscellaneous Case
E284 of 2024) [2025] KEELC 6024 (KLR) (17 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6024 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS CASE E284 OF 2024
CG MBOGO, J
SEPTEMBER 17, 2025**

BETWEEN

BILLY AMENDI & COMPANY ADVOCATES ADVOCATE

AND

KEMRI STAFF RETIREMENT BENEFIT SCHEME CLIENT

RULING

1. The client/applicant filed the chamber summons dated 26th November 2024, expressed to be brought under Order 11 (1) and (2) of the Advocates (Remuneration) Order seeking the following orders:-
 1. Spent.
 2. Spent.
 3. This honourable court be pleased to admit this reference out of time.
 4. This honourable court be pleased to review/vary/set aside and or re-open for fresh taxation, the applicant's amended Bill of Costs dated 20th December, 2023.
 5. In the alternative, the honourable court be pleased to set aside the taxing master's decision dated 11th September, 2024 as it relates to the reasoning and determination of all the items in the bill of costs.
 6. In the alternative, the honourable court be pleased to strike out the applicant's amended bill of costs dated 20th December, 2023.
 7. In further alternative, this honourable court be pleased to re-submit the applicant's amended Bill of Costs dated 20th December, 2023 for fresh taxation before a different taxing officer.



8. The respondents be awarded the costs of this reference.
2. The application is premised on the grounds on its face. The application is further supported by the affidavit of Judy I Nyagah, the trust secretary of the client/ applicant sworn on 25th November, 2024. The client/applicant deposed that the advocate/respondent was fully paid his legal fees for the transaction between the months of August and September 2014, and January, 2015. That despite receiving payments, the advocate/respondent abandoned the transaction without fully delivering the services, and demanded for his legal fees which prompted the filing of the Bill of Costs.
3. The client/applicant deposed that prior to the hearing of the bill of costs, they attempted to obtain documents showing proof of payment but they were unable to since it is over ten years since the payments were made. Further, that having obtained the said documents, they have met the threshold for review. They deposed that the taxing officer made manifest error in computing the instruction fees on the subject value at Kshs.252,000,000/- as opposed to Kshs.217,000,000/-. Further, that items 1 and 5 were erroneously taxed. The client/applicant deposed that the impugned ruling manifests an error in principle and if left, it is likely to occasion an injustice upon it.
4. The application was opposed vide the replying affidavit of Billy Amugune Amendi, the advocate/respondent, sworn on 25th February, 2025. The advocate/respondent deposed that the award was far below the scale, whereas he carried out his duties as instructed including implementing the same as per the letters dated 6th May, 2014 and 28th May, 2014. He denied being paid fees for legal services, and deposed that even as at 2nd February, 2015 the transaction including transfer and consent had not been carried and that the client/ applicant cannot insinuate that he was paid.
5. The advocate/respondent further deposed that the instruction brief was completed when the title deeds were delivered in June, 2022 and they requested to be paid for their legal services. That in a meeting held on 11th November, 2021 the board members were informed that he had not been paid for his services and that he had received funds disbursed to him for the works and fees for conveyance and related costs. He deposed that there is no new evidence emerging as they had been in possession of the same all along, and that would necessitate the reopening or setting aside of the orders. He deposed that even before the hearing of the bill of costs, the client/applicant had the time to file a counterclaim or an objection to the bill of costs.
6. The advocate/respondent deposed that the taxing officer computed the instruction fees based on the purchase of the two properties which was Kshs.252,000,000/-, and thus it was correct, actual and factual. He deposed that the taxing officer was correct in her reasoning on instruction fees, and that the request to set aside the taxation is neither based on an error of principle nor an error of law. He further deposed that the company secretary of the client/applicant is withholding evidence of the proceedings of the meeting held on 11th November, 2021 and that it is hell bent on not paying legal fees. He urged the court to dismiss the application with costs.
7. The client/ applicant filed a further affidavit sworn on 20th June, 2025 in response thereto. The client/ applicant reiterated the contents of its supporting affidavit and deposed that the advocate was paid fees alongside payments made to other professionals. Further, the advocate/respondent did not complete the tasks and that the surveyor had to be engaged separately. Further, that the court has powers to direct for a review where there has been discovery of new and material evidence which was not available at the time of taxation.
8. The chamber summons was canvassed by way of written submissions. The client/applicant filed its written submissions dated 20th June, 2025 where it raised two issues for determination as follows: -



- i. Whether this honourable court has the power to enlarge time to file the application dated 26th November, 2024.
 - ii. Whether the application filed herein has merit.
9. On the first issue, the client/applicant submitted that they have explained the delay in bringing forth this application having obtained new evidence demonstrating that the advocate/ respondent was paid legal fees. Further, that the information was in the hands of a third party, the trustee, which it does not have control over. They submitted that the delay in filing this application will not be prejudicial to the advocate/respondent.
10. On the second issue, the client/applicant submitted that the advocate/respondent has not shown what the monies in the letter dated 1st September, 2014 and 28th January, 2015 were utilized for, and that the same was never disclosed before the taxing officer. That if these amounts totaling to Kshs.9,916,130/- are taken into account, vis a vis the taxed amount, it is clear that the advocate/ respondent was overpaid legal fees. It was submitted that the taxing officer erred in taxing instruction fees on items 1 and 5 yet he only acted for one transaction.
11. The advocate/respondent did not file his written submissions. Be that as it may, I have considered the chamber summons, the responses thereto and the written submissions filed by the client/applicant. In my view, the issue for determination is whether the application has merit.
12. The circumstances under which this court may or can interfere with the taxing officer's exercise of discretion are now well known. The taxing master must be guided by the principles governing taxation as was held in the leading case of Premchand Raichand Ltd Another -vs- Quarry services of East Africa Ltd and Another No. 3 (1972) EA 162. The principles laid out are:-
 - i. The instruction fee should cover the advocates work including taking instructions and preparing the case for trial or appeal;
 - ii. The taxing master was expected to tax each bill on its merits;
 - iii. The value of the subject matter had to be taken into account;
 - iv. The taxing master's discretion was to be exercised judicially and not whimsically or capriciously;
 - v. Though the successful litigant was entitled to a fair reimbursement, the taxing master had to consider the public interest such that costs were not allowed to rise to a level that would confine access to the courts to the wealthy.
 - vi. No appeal or reference can be allowed unless the appellant can show or demonstrate that above mentioned principles have been breached because judges on appeal as a principle do not like to interfere with an assessment of costs by the taxing officer unless the officer has misdirected himself or herself in a matter of principle, but if the quantum of an assessment is manifestly extravagant, a misdirection of principle may be a necessary inference."
13. In applying the above principles to the circumstances of this case, the advocate/respondent filed his amended bill of costs dated 20th December, 2023 seeking costs amounting to Kshs.14,083,339.60/-. In opposition, the client/applicant filed its written submissions 16th July, 2024. The advocate/respondent filed his written submissions dated 8th April, 2024 and further submissions dated 16th August, 2024. The client/applicant now challenges the ruling delivered on 11th September, 2024 on the grounds that the advocate/respondent was paid full legal fees, and that prior to the hearing of the bill of costs,



they attempted to obtain proof of payment but they were unable to. Secondly, the client/applicant contended that the items 1 and 5 of the amended bill of costs were erroneously taxed.

14. I have carefully perused the record herein, and I note that during taxation, the payment, if any, of the advocate/respondent's legal fees was not raised before the taxing officer. In fact, the written submissions dated 16th July, 2024 did not contest or challenge any legal fees. If at all this claim has been made in good faith, the client/applicant did not seek more time before the taxing officer to obtain documents allegedly held by its 'trustee'. In my view, the argument that there is now new information that was not available during taxation is not persuasive. It is also my view that by filing this chamber summons, the client/applicant is trying to litigate issues that it neglected to do before the taxing officer. In the circumstance, an order to review, vary or set aside the said ruling is not available to the client/applicant.
15. Secondly, and as I have understood the client/applicant, it is displeased with items 1 and 5 of the amended bill of costs as taxed. These two items were on instructions to act for the client/applicant in the purchase of land known as Donyo Sabuk/Komarock/1/155 and for further instructions to search for alternative land whose value was for Kshs.252,000,000/- (as per the sale agreement). The client/applicant contends that the taxing officer erred in computing the instruction fees at Kshs.252,000,000/-. I have carefully read the impugned ruling and in taxing item one 1 at Kshs.500,000/-, the taxing officer properly applied her mind to the principles of taxation. I see no reason to interfere with this finding. On item no. 5, the taxing officer was guided by the value of the property as per the sale agreement being the sum of Kshs.252,000,000/-. The taxing officer was correct in her finding, and there is nothing to show that an error was committed. On both items, I find no errors committed.
16. From the above, and in my view, I see no reason to disturb the finding of the taxing officer. The chamber summons dated 26th November, 2024 lacks merit, and it is hereby dismissed with no orders as to costs.

Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY THIS 17TH DAY OF SEPTEMBER, 2025.

HON. MBOGO C.G.

JUDGE

17/09/2025.

In the presence of:

Mr. Benson Agunga - Court assistant

Mr. Onyango for the Client/Applicant

Ms. Khamala for the Advocate/Respondent

