



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

Muriithi & another v Ollin Savings & Credit Co-operative Society Ltd (Miscellaneous Civil Application E5 of 2020) [2023] KEELC 16204 (KLR) (9 March 2023) (Ruling)

Neutral citation: [2023] KEELC 16204 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA
MISCELLANEOUS CIVIL APPLICATION E5 OF 2020**

JM MUTUNGI, J

MARCH 9, 2023

BETWEEN

PURITY NJAMBI MURIITHI 1ST APPLICANT

MERCY WAIRIMU MURIITHI 2ND APPLICANT

AND

OLLIN SAVINGS & CREDIT CO-OPERATIVE SOCIETY LTD ... RESPONDENT

RULING

1. I have before me a Chamber Summons Application dated October 22, 2020 made under the [Advocates Act](#) Rule 11(2) Cap 16 Laws of Kenya. The Applicants pray for the following orders:-
 1. That this Honourable Court do set aside and tax afresh the Bill of Costs dated December 13, 2019 by the Respondent herein.
 2. That the Costs of this Application be provided for.
2. The Application is supported on the grounds set out on the face of the application and on the Affidavit sworn in support by Peter Muthii Murigu Advocate. The Applicant avers that the Bill of Costs dated December 13, 2019 taxed at Kshs 531,475/- by Hon. E. O. Wambo on 28/8/2020 was excessive and in particular avers that the instructions fees of Kshs 500,000/- was wrongly awarded as no Defence to Counter Claim had been filed by the Respondent.
3. The Applicants stated they gave notice of objection to the taxation vide a Notice dated 8/9/2020 and were supplied with the taxing masters reasoning for his decision on 8/10/2020. Though the Applicant states the copy of the reasoning given by the Taxing Master was attached to the Supporting Affidavit and marked (PMM III) no such annexure was attached to the Affidavit. While I note the copy of the Bill of Costs was annexed without the copy of Ruling/reasons on the taxation, this court is not in a position to evaluate and consider what informed the Taxing Master to tax the Bill of costs in the manner



that he did. Where an application such as the present application omits to annex relevant materials/ documents as specified in the Affidavit, that renders the application to be incompetent as the Court cannot properly deal with the application in the absence of what in effect are crucial and vital materials that require to be considered.

4. In the present application the Ruling and/or reasons of the Taxing Master is not annexed. Under Rule 11(2) of the Remuneration Order, before an aggrieved party can file a Chamber Summons objecting to the taxation he is required to obtain the reasons for the taxing Officer's decision on the items objected to and within 14 days of the receipt of the reasons apply to a Judge by way of Chamber Summons, setting out the grounds for his objection. Rule 11(1) and (2) of the Remuneration Order provides as follows:-
 1. Should any party object to the decision of the taxing Officer, he may within fourteen days after the decision give notice in writing to the taxing Officer of the items of taxation to which he objects.
 2. The Taxing Officer shall forthwith record and forward to the Objector the reasons for his decision on those items and the Objector may within Fourteen days from the receipt of the reasons apply to a Judge by Chamber Summons which shall be served on all the parties concerned, setting out the grounds of his objection.
5. As the Chamber Summons filed by the Applicant did not annex the reasons/decision of the Taxing Officer the application is fatally defective and therefore incompetent and the same is hereby struck out with no order as to costs.
6. Orders accordingly.

RULING DATED, SIGNED AND DELIVERED AT KERUGOYA THIS 9TH DAY OF MARCH, 2023.

J. M. MUTUNGI

E.L.C - JUDGE

