



**Owino Kojo and Co Advocates v Bell Estate Agency Limited (Miscellaneous Application E376 of 2022) [2025] KEHC 667 (KLR) (Commercial and Tax) (14 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 667 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
MISCELLANEOUS APPLICATION E376 OF 2022**

**AM MUTETI, J  
JANUARY 14, 2025**

**BETWEEN**

**OWINO KOJO AND CO ADVOCATES ..... ADVOCATE**

**AND**

**BELL ESTATE AGENCY LIMITED ..... CLIENT**

**RULING**

1. The applicant by a Notice of Motion dated the 2<sup>nd</sup> August 2023 seeks to have judgment entered for the applicant against the respondent in the sum of Kshs. 169,589.40 being the sum of costs taxed by the Taxing master on 31/10/2022 certified through certificate of costs dated 08/11/2022.
2. The applicant further seeks to be awarded interest at the rate of 14% per annum on the stated sum of Kshs. 169,580.40 computed from 4/5/2022 till payment in full.
3. The applicant further seeks to have a decree issued upon the entry of judgment in order for them to be able to execute for the recover of the money.
4. The application is supported by an affidavit sworn by Owino Kojo Advocate on the 2<sup>nd</sup> day of August 2023.
5. The deponent states that :-
  - I. That I am an Advocate of the High Court of Kenya having the conduct of this matter on behalf of the Applicant and I'm well versed with the proceedings herein hence competent to swear this Affidavit.
  - II. That further to the Affidavit of Service sworn on 6th October 2023, I swear this Affidavit to confirm that on 22-11-2023 I served a copy of the Hearing Notice dated 26.09.2023 upon



the Respondent via electronic mail service to its email address sifatawers@yahoo.com. On the same day and through the same email address, I served a copy of the application dated 02.08.2023 upon the Respondent. The Respondent has previously used the said email address to instruct the Applicant. (Please refer to the email print outs dated 22nd November 2023 and 4th May 2022.)

- III. That this second service was informed by the Respondent's Counsel's sentiments in a related matter, *Owino Kajo & Co. Advocates v Bell Estate Agency Limited* Nairobi HCCOMMMISC. No. E036 of 2023, that she did not have instructions to proceed with the conduct of the matter on behalf of the Respondent.
  - IV. That what is stated herein is true to the best of my personal knowledge, information and belief
6. I have perused the record and noted that there is no dispute that the applicant file a Bill of costs against the respondent and that the same was taxed by the taxing master of this court and a certificate of costs issued dated the 8<sup>th</sup> November 2022.
  7. The respondent does not appear to have appealed against the ruling of the Taxing master dated the 3<sup>rd</sup> October 2022.
  8. The Ruling therefore still stands and remains binding to the parties.
  9. The parties have filed their respective submissions which I have duly considered.
  10. It is not disputed that the applicant acted for the respondent and pursuant thereto filed a bill of costs which was taxed amid resistance by the respondent.
  11. It follows therefore that there was judicial determination as to the fees payable to the applicant.
  12. If the respondent was aggrieved by the said ruling in whole or in part the recourse for the lay in preferring reference against the decision.
  13. In the absence of such a reference to a judge the decision of the taxing master stands.
  14. The respondent had the choice of the preferring such a reference under Rule 11 of the *Advocates (Remuneration) Order*.
  15. The taxing master gave a detailed Ruling which the respondent had the option of challenging before a judge.
  16. Similarly, there is no applications by the respondent seeking to set aside the certificate of costs by the taxing master.
  17. As it stands the decision of the taxing master stands. There is nothing to show that the same was erroneously and irregularly arrived at. See Petition No. 16 of 2019 *Non-Governmental Organizations Co-ordination Board v. Eric Gitari & 5 Others* Supreme Court in rejecting a reference had this to say:-

“Rule 6 (2) of the Rules of the Court only permits any party aggrieved by a decision of the registrar to apply for review a Single Judge whose decision is final. Because taxation is not a mathematical exercise but rather a discretionary process, the Single Judge cannot purport to engage in such an exercise, which involves the perusing of the record in order to ascertain all work necessary and properly done in connection with the appeal, including attendances, correspondent perusal and consulting authorities.”



18. The role of the taxing master is thus specific and once performed unless the decision is reviewed by way of a reference this court would have no reason to reject the request for entry for judgment.
19. In the premises I find and hold that the Notice of Motion by the applicant is merited and accordingly judgment is entered for the applicant in the sum of Ksh. 169,580. 40 plus costs interest at 14% from 8<sup>th</sup> November 2022 as per the certificate of costs until payment in full.
20. The applicant shall also have the costs of the instant application with all the incidental costs of executing the decree.
21. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 14<sup>TH</sup> DAY OF JANUARY 2025.**

**A. M. MUTETI**

**JUDGE**

In the presence of:

Court Assistant: Kiptoo

Kojo for Applicant

No appearance Respondent

