



**Mwangi Keng'ara & Company Advocates v Kibe & another (Miscellaneous Application E136 of 2022) [2025] KEHC 4247 (KLR) (Commercial and Tax) (4 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4247 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
MISCELLANEOUS APPLICATION E136 OF 2022**

**NW SIFUNA, J**

**APRIL 4, 2025**

**BETWEEN**

**MWANGI KENG'ARA & COMPANY ADVOCATES ..... ADVOCATE**

**AND**

**JOEL K KIBE ..... 1<sup>ST</sup> CLIENT**

**CHRISTOPHER KIBE ..... 2<sup>ND</sup> CLIENT**

**RULING**

1. This ruling is from the Taxation Reference filed by the Advocate and her clients the Respondents. It was brought vide a Chamber Summons dated 15<sup>th</sup> September 2022. The same which seeks to set aside the Taxation Decision of Hon. C. Wanyama (Taxing Officer) dated 29<sup>th</sup> July 2022, was brought under the provisions of Rule 11(2) of the *Advocates Remuneration Order* (ARO).
2. It has faulted the said Taxing Officer's taxation of this Advocate's Advocate-Client Bill costs dated 21<sup>st</sup> February 2022. The Taxing Officer taxed off Kshs 19,180,187=. Hence taxing the said Bill at Kshs 1,671,735= inclusive of 16% Value Added Tax (VAT).
3. The Application has principally faulted the Taxing Officer, on computation of Instructions Fees. It has contended that the Taxing Officer applied schedule 1 scale 2 of the Advocates Remuneration (Amendment) to determine instructions fees. That, that is the scale for Debentures, Mortgages and Charges. That yet the subject matter of the taxation was a commercial transaction for acquisition of a majority shareholding. That by so doing, the computation substantially reduced the fees.
4. The Advocate has contended that the Taxing Officer ought to have applied Schedule 1 Scale 2 of the *Advocate Remuneration Order* (ARO) instead of Schedule 5 Part 2 of the same.



5. Taxation is a judicial function rather than a mathematical exercise. By it, the Taxing Officer should apply the correct principles as well as the correct Remuneration Order and scales. Besides, legal fees awarded to an advocate should be such as compensate the Advocate for the service rendered. The fees should not be such as exploit the Client or amount to unfair enrichment of the Advocate.
6. Upon carefully appraising the Reference, the parent subject matter of taxation, the taxation proceedings, the taxation decision dated 29<sup>th</sup> July 2022, as well as the rival submissions; I am satisfied that the Taxing Officer applied her mind correctly. Hence her taxation cannot be faulted. For that reason, this Reference lacks merit and is hereby dismissed with no order as to costs.

**DATED AND DELIVERED AT NAIROBI ON THIS 4<sup>TH</sup> DAY OF APRIL 2025.**

**PROF (DR) NIXON SIFUNA**

**JUDGE**

