



REPUBLIC OF KENYA



**Korongo t/a M Korongo & Co Advocates v Kioko (Family Miscellaneous Application E059 of 2023) [2025] KEHC 8332 (KLR) (13 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8332 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
FAMILY MISCELLANEOUS APPLICATION E059 OF 2023**

**JM NANG'EA, J**

**JUNE 13, 2025**

**BETWEEN**

**GEORGE KORONGO T/A KORONGO & ADVOCATES ..... APPLICANT**

**AND**

**SAMUEL KITUKU KIOKO ..... RESPONDENT**

**JUDGMENT**

1. This is a Reference vide Chamber Summons dated 25<sup>th</sup> November 2024, from the decision of the Deputy Registrar (Hon. Christine Menya) dated 18/10/2024 by which she taxed the Advocate/Client Bill of Costs dated 2<sup>nd</sup> October 2023 in the sum of Kshs. 783,700/=. The Reference application before me seeks orders as hereunder;-
  1. That the decision of the Taxing Officer delivered on 18<sup>th</sup> October 2024 with respect to items 1 & 2 on instruction fees in the Bill of Costs dated 2<sup>nd</sup> October 2023 be set aside and taxed a fresh before this Honourable Court.
  2. That the costs of this application be provided for.
2. By affidavit in support of the Summons the Applicant (Samuel Kituku Kioko) avers that the Bill of Costs in question arose from Nakuru High Court Matrimonial Cause No. 2 of 2018 copies of proceedings of which and judgement delivered therein are exhibited. He was dissatisfied with the taxation ruling and brought this Reference for the court's determination. In particular, he objects to the amounts taxed as instruction fees as per items 1 & 2 of the Bill of Costs dated 2<sup>nd</sup> October 2023.
3. The Applicant further avers that the Taxing Officer did not give reasons for arriving at the figures in contention under the two items.
4. The Respondent's Advocate (George Korongo) swore an affidavit in reply opposing the application. He dismissed the application as frivolous and unmeritorious. According to him, the Bill of Costs under



- reference was drawn to scale and was lawfully taxed. Counsel contends inter alia that instructions fees are charged once and are not dependent on the stage a suit has reached. He fully associates himself with the Taxing Officer's decision he says is well reasoned.
5. Learned Counsel for the parties were invited to put in written submissions but it appears that only the Applicant's Advocates complied.
  6. I have perused rival affidavit evidence and the Applicant's submissions in relation to this Reference. In contention are items 1 and 2 (instruction fees) of the Bill of Costs dated 2<sup>nd</sup> October 2023 apparently taxed at Kshs. 500,000/= and then increased by Kshs. 250,000/= as provided for by the Advocates (Remuneration) (Amendment) Order, 2014. The Applicant thinks that the taxing officer erred by enhancing the minimum charge of Kshs. 35,000/= allowed in a Matrimonial Cause such as was before the court to a huge figure of Kshs. 500,000/= without giving reasons therefore. The court is told that the circumstances of the case do not warrant an increase.
  7. The court has been referred to three judicial decisions, being Republic vs Minister of Agriculture & 2 Others Ex Parte Samwel Muchiri W. Njuguna & 6 Others (2006) eKLR; a Ugandan court of Appeal decision in Makula Internation vs Cardinal Msubuga & Another (1982) HCB11 and DK Law Advocates vs Zhong Building Material Co. Ltd. & Another (2021) eKLR.
  8. As deduced from the cited decisions and the Advocates Remuneration Order applicable, among the factors to consider before deciding whether or not to increase minimum charges provided include; the nature and importance of the case; the amount or value of the subject matter and the general conduct of proceedings. Reasons have to be given for any increase or decrease of the minimum fees.
  9. Based on the record, the dispute in the subject Matrimonial Cause is over one property known as LR Njoro Ngata Block 1/4015. Only the Applicant in the Cause testified. Learned Counsel for the parties filed written submissions therein.
  10. In her decision, the Taxing Officer correctly rejected the claim of Kshs. 5,000,000/= in purported agreed instruction fees for want of credible evidence. The Officer however, fell into error when she taxed instructions fees in the sum of Kshs. 500,000/= without giving reasons therefore contrary to the law. She merely observed that she was guided by;  

“..... the nature of the case and the work that was involved which was basically to confirm if one of the properties was part of the matrimonial property.”
  11. The Learned Taxing Officer therefore appeared to be alive to the fact that the matter is not a complex one. The Respondent did not even give evidence in the Matrimonial Cause.
  12. Whereas, I concur with the Respondent that instructions fees are only charged once in a matter, I find that the taxed amount of Kshs. 500,000/= was far on the higher side and thus erroneous. In my view, considering the circumstances of the case adverted to hereinabove, a sum of Kshs. 50,000/= is reasonable instruction fees for the work done by Counsel and is awarded to the Respondent. Pursuant to the Advocates Remuneration Order the sum of Kshs. 50,000/= shall be increased by half (Kshs. 25,000/=) the matter being an Advocate/Client Bill of Costs.
  13. The Respondent is therefore awarded Kshs. 75,000/= being instruction fees in Matrimonial Cause No. 2 of 2018. The decision of the Taxing Officer on instruction fees is set aside and accordingly substituted. The parties shall bear their own costs of this Reference.
  14. Judgement accordingly.

**J. M. NANG'EA, JUDGE.**



**JUDGEMENT DELIVERED THIS 13<sup>TH</sup> DAY OF JUNE 2025 IN THE PRESENCE OF:**

Mr. Musembi Advocate For The Client/applicant

Ms Juma Advocate For The Respondent

THE COURT ASSISTANT (JENIFFER)

**J. M. NANG'EA, JUDGE.**

