



REPUBLIC OF KENYA



**Njoka v Ngoroi (Miscellaneous Civil Application E079 of 2024)  
[2025] KEHC 7742 (KLR) (4 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7742 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT EMBU  
MISCELLANEOUS CIVIL APPLICATION E079 OF 2024  
RM MWONGO, J  
JUNE 4, 2025  
IN THE MATTER OF TAXATION OF THE PARTY-TO-  
PARTY BILL OF COSTS IN EMBU HCCA NO. E017 OF 2024**

**BETWEEN**

**CHARLES IRERI NJOKA ..... APPLICANT**

**AND**

**NICHOLUS NJUE NGOROI ..... RESPONDENT**

**RULING**

1. The applicant filed chamber summons dated 17<sup>th</sup> October 2024 seeking the following orders:
  1. Spent;
  2. Spent;
  3. That the Honourable Court be pleased to reassess the respondent's bill of costs dated 04<sup>th</sup> June 2024; and
  4. That costs of this application be awarded to the applicant.
2. The application was supported by the grounds set out on its face and facts deposed in the supporting affidavit. These facts are that the taxing master failed to give reasons for her decision. Thus, the assessment is excessive and reassessment is necessary. The applicant stated that he opposed the bill of costs through a replying affidavit but the taxing master assessed it at Kshs 35,800/-. Following taxation of the bill of costs, he wrote a notice of objection to the taxing master on 09<sup>th</sup> September 2024 seeking reasons for her decision. He said that it is necessary that the bill of costs be reassessed.



### **Grounds of Opposition.**

3. The respondent herein filed grounds of opposition to the application in which he referred to the notice of objection to the bill of costs. He stated that he is agreeable to the bill of costs being referred to another Deputy Registrar for taxation afresh in the presence of both parties.

### **Supplementary Affidavit.**

4. The applicant filed a supplementary affidavit stating that the respondent's bill of costs was assessed at Kshs 36,800/- and insisted that the amount was excessive. He referred to his replying affidavit to the said bill of costs before the taxing master.

### **Replying Affidavit.**

5. The respondent, in his replying affidavit, annexed the full copy of the bill of costs and referred to his notice of objection written to the taxing master. He again urged the court to reassess the bill of costs.

### **Issue for Determination.**

6. From the foregoing, the issue for determination is whether the application has merit.

### **Analysis and Determination.**

7. When the application herein was filed, the court, on 03<sup>rd</sup> February 2025, granted leave to the applicant to file the same as a reference provided that the taxing master's ruling is annexed thereto. On 05<sup>th</sup> March 2025, the applicant had not filed or served the reference but had filed a supplementary affidavit through which he annexed the taxing master's ruling.
8. The orders sought arise from the ruling of the Deputy Registrar as taxing master delivered on 04<sup>th</sup> September 2024. Under Rule 10 of the *Advocates (Remuneration) Order* (ARO), a Registrar or a Deputy Registrar of the High Court is a taxing officer for purposes of taxation of bills under the ARO.
9. A Judge of the High Court cannot therefore sit as a taxing master, neither can he assess or reassess the bill of costs. The correct position is that when a party contests assessment of the bill of costs, a reference is filed and is considered by the High Court. The only order that can be made by the High Court is one referring the matter back to the taxing master for re-assessment.

### **Disposition.**

10. Through his grounds of opposition, the respondent stated that he is amenable to having the matter placed before a different taxing master for reassessment. However, the order sought cannot be granted in the manner that it is sought.
11. Given this position, the court hereby orders that the matter be referred back to a different taxing master for reassessment of the bill of costs dated 04<sup>th</sup> June 2024.
12. Orders accordingly.

**DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 4<sup>TH</sup> DAY OF JUNE, 2025.**

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**R. MWONGO**  
**JUDGE**



Delivered in the presence of:

1. Ms. Mwinja holding brief for Mugambi N. for Applicants
2. Kathungu for Respondent
3. Francis Munyao - Court Assistant

