



**Kakay v Kenya Airways Limited (Miscellaneous Application
E402 of 2021) [2025] KEHC 10489 (KLR) (Civ) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10489 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

MISCELLANEOUS APPLICATION E402 OF 2021

JN MULWA, J

JULY 17, 2025

BETWEEN

MOHAMED KAKAY APPLICANT

AND

KENYA AIRWAYS LIMITED RESPONDENT

RULING

1. By a Chamber Summons Application dated 14/11/2024, the Applicant Mohamed Kaykay, pursuant to provisions of Rule II [2] of the *Advocates Remuneration Order* sought that the taxing officer's decision made on 15/10/2024 on his Bill of Costs dated 22/07/2020 be set aside re assessed; And in the alternative, the said Bill of costs be taxed afresh by a different taxing officer other than the Hon. Otieno Wambo, on grounds stated on its face, and in the supporting affidavit sworn on 14/11/2024 by Elvis Oyare, Advocate for the Applicant.
2. The Applicant's complaint is that while assessing the instructions fees at Kshs. 203,200/= the taxing officer included other costs being travel, accommodation and meals, costs spent by the Applicant while in Nairobi to testify that whereas the National Civil Aviation Administrative Review Tribunal did not order such costs to be paid.
3. It is further deposed that the taxing officer ignored the Respondent's submissions and decisions that support court holdings that travel costs cannot be assessed unless there is a specific prayer for reimbursement of travel costs in the statement of claim and such costs are awarded in the judgment.
4. For the above, the Applicant sought the orders to set aside the decision as prayed.
5. The Respondent Kenya Airways Limited opposed the application by a replying affidavit sworn on 6/02/2025.



6. Both parties have filed submissions to urge their rival respective positions as evidenced in their supporting and opposing affidavits.
7. The Applicant in its prayer No. 3 seeks that in the alternative, the impugned Bill of Costs dated 22/07/2020 be taxed afresh by a different taxing officer other than the officer whose decision is the subject of this ruling.
8. I have considered the reasons set out by the Applicant in the motion including its submissions. I have likewise considered the Respondent's reasons and submissions put forth by the Respondent.
9. Without a doubt, both parties have raised serious issues that must be interrogated afresh for purposes of arriving at a fresh well-analyzed reasoning on the items under dispute guided by the decisions cited and upon taking into account the tribunal's judgment from which the impugned bill of costs arises.
10. For the foregoing, I am persuaded that the decision of the taxing officer dated 15/10/2024 must be set aside.

It is hereby set aside and forwarded for fresh Taxation by the Hon. Deputy Registrar, Margaret Kurumbu. It shall be listed for directions before the said Taxing officer on 6/8/2025.

11. Costs of the application shall abide by the outcome of the fresh taxation.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 17TH DAY OF JULY 2025.

JANET MULWA

JUDGE.

