



United Democratic Alliance v Registrar of Political Parties; Maendeleo Democratic Party & 5 others (Interested Parties) (Civil Appeal E045 of 2023) [2025] KEHC 9993 (KLR) (Civ) (11 July 2025) (Ruling)

Neutral citation: [2025] KEHC 9993 (KLR)

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

CIVIL

CIVIL APPEAL E045 OF 2023

AC MRIMA, J

JULY 11, 2025

BETWEEN

UNITED DEMOCRATIC ALLIANCE APPELLANT

AND

THE REGISTRAR OF POLITICAL PARTIES RESPONDENT

AND

MAENDELEO DEMOCRATIC PARTY INTERESTED PARTY

ORANGE DEMOCRATIC PARTY INTERESTED PARTY

PROGRESSIVE PARTY OF KENYA INTERESTED PARTY

CHAMA CHA UZALENDO INTERESTED PARTY

JUBILEE PARTY INTERESTED PARTY

DEVOLUTION EMPOWERMENT PARTY INTERESTED PARTY

RULING

1. In its judgment rendered on 11th May 2023, this Court dismissed the appeal which originated from the Political Parties Dispute Tribunal with costs. On 17th November 2023, this Court stayed taxation proceedings for a period of one year in view of the pendency of the appeal preferred by the Applicants at the Court of Appeal.
2. The one-year period lapsed before the appeal was determined at the appellate Court thus prompting the Applicant to institute the Notice of Motion dated 17th December 2024 seeking the following orders: -



- a. Spent
 - b. That this Honourable Court be pleased to extend and or reinstate the Orders of taxation proceedings before the Deputy Registrar issued on 17th November 2023 by the late Hon. Justice D. Majanja pending the hearing and determination of the Appellant's appeal in COACA No. E512 of 2023 – *United Democratic Alliance Party versus Office of the Registrar of Political Parties & 6 Others*.
 - c. That this Honourable Court be pleased to issue an interim order of stay of taxation proceedings before the Deputy Registrar pending the hearing and determination of the Applicant's appeal in COACA No. E512 of 2023 – *United Democratic Alliance Party versus Office of the Registrar of Political Parties & 6 Others*.
 - d. Costs of the Application be in the cause.
 - e. That the honourable court be pleased to grant such further or other reliefs as it may deem just and expedient.
3. In the grounds and affidavit in support of the application, the Applicant stated that the one-year period of stay of taxation has since lapsed and the appeal is awaiting a hearing date at the Court of Appeal. The Applicant asserted that among the grounds of appeal was this Court's misapprehension of the legal principle on award of costs on public interest litigation. The Applicant argued that allowing the taxation proceedings to take place would be contrary to the Supreme Court decision in *Law Society of Kenya v Attorney General & Another* (Petition No. 4 of 2019 KESC16 (KLR)).
 4. It was its case that the orders sought are warranted since the 2nd Interested Party is in the eve of executing for the costs having sought the taxation of its Bill of Costs, a process that will defeat the substratum of the appeal. It was asserted that enforcement of this Court's judgment through the scheduled taxation would greatly undermine the proceedings before the Court of Appeal and that the taxation is premature since costs await the outcome of the appeal.
 5. Orange Democratic Movement Party, the 2nd Respondent challenged the application through Grounds of Opposition date 6th February 2025. It was its case that the application is premature and an abuse of Court process since the Applicant has filed a similar application at the Court of Appeal in Civil Appeal E512 of 2023 *United Democratic Alliance v Office of the Registrar of Political Parties, Orange Democratic Party* which awaits directions.
 6. Further, it was its case that the application is premature as the Bill of Costs is yet to be taxed. As such, it was its position that there was no imminent threat of execution. The 2nd Interested Party stated that it was in the interests of justice that the taxation proceedings should go on unhindered since it is not known when the appeal will be determined. It urged that in any event, the Court can stay the certificate of taxation if by the time the ruling on taxation is rendered, the appeal will not have been disposed. It further claimed that should the appeal succeed after taxation and execution, such costs as taxed can always be recovered/repaid by the interested party.
 7. In the end the 2nd Interested party stated that it was not averse to stay being granted on condition that the Applicant pays 50% of the Bill of Costs as drawn, being Kshs. 15,000,000/- into a joint interest earning account to be held by the Counsel for the Applicant and it.
 8. Save for the 2nd Interested Party, the Respondent and the rest of the Interested Parties did not participate in the Application.



9. Having appreciated the Applicant's case as well as the tenor of the 2nd Interested party's grounds of opposition, the only issue for determination is whether the application is merited.
10. The instant application is premised on Order 42 Rule 6 of the Civil Procedure Rules and essentially seeks to halt taxation proceedings until the appeal on the issue of costs is heard and determined. Under the Advocates Remuneration Order [ARO], taxation of costs is an entitlement to a successful party and naturally ensues once a party is awarded costs. However, where an appeal, on the narrow issue of costs arises, and the Court appealed from issues a time bound stay of taxation pending hearing and disposal of the appeal, would such Court, in view of the pendency of the appeal, extend such orders?
11. In resolving the conundrum, the decision Patrick Wafula Kuloba v Director/Chief Executive Officer, Kenya Industrial Research & Development Institute [2021] eKLR where the Court faced a similar situation, observed thus: -

.... it makes judicial sense to avoid a situation where a taxation will eventually have to be repeated or become redundant depending on the outcome of the appeal.
12. While agreeing with the foregoing, the Court in Civil Appeal No. 58 of 2018, Ewaso Nyiro North Development Authority v APA Insurance Limited (Civil Appeal 58 of 2018) [2024] KEHC 3779 (KLR) (4 April 2024) (Ruling) took the position that staying the taxation would save judicial time and better serve the 'Oxygen Principle' of Civil Procedure. It observed thus;

...if the appellate court will have made a determination that affects the costs of the suit already taxed, judicial time would have been wasted.

The overriding objective of the civil process to facilitate an expeditious determination of disputes at proportionate and affordable cost would appear to favour the halting of the determination of taxation of the Bill of Costs.

Once a determination on the appeal is made, the taxation shall proceed from the stage it had reached, subject to any directions or further orders of the appellate court at the conclusion of the appeal.
13. Deriving from the foregoing, it is incumbent upon this Court to take the position that aligns with the prudent use of an otherwise scarce judicial time as well as one that is in tandem with the dictates of overriding objective of Civil Procedure. In saying so, this Court must clarify that were it not for fact this Court issued some interim orders before, it would have declined the application given that another stay application was filed in the Court of Appeal and directed that the application be dealt with by the appellate Court.
14. Having said so, this Court is aware of the submission by the 2nd Interested Party that the stay be conditional to depositing the sum of Kshs. 15,000,000/= which is one-half of the costs as drawn. Whereas such a submission is not idle, the Court will be hesitant to consider granting any conditions since none was granted in the first instance and there has been no submission of indolence on the part of the Applicant.
15. In the premises, this Court allows the application and makes the following orders: -
 - (a) The interim Order of stay of the taxation proceedings before the Deputy Registrar, issued on 17th November 2023, pending hearing and determination of the matter before the Court of Appeal in CoACA No. E521 of 2023, United Democratic Alliance Party v Office of the Registrar of Political Parties and 6 Others shall remain in force pending the hearing and determination of the appeal.



(b) The costs of the application to abide the outcome of the appeal.

16. Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 11TH DAY OF JULY, 2025.

A. C. MRIMA.

JUDGE.

Ruling virtually delivered in the presence of:

....., Learned Counsel for the Appellant/Applicant.

....., Learned Counsel for the 2nd Interested Party.

Amina/Abdirazak – Court Assistants.

