



**Tom Ojienda & Associates v County Government of Meru (Petition 10 of 2018)  
[2024] KEHC 6647 (KLR) (Constitutional and Human Rights) (6 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6647 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CONSTITUTIONAL AND HUMAN RIGHTS  
PETITION 10 OF 2018  
LN MUGAMBI, J  
JUNE 6, 2024**

**BETWEEN**

**PROF. TOM OJIENDA & ASSOCIATES ..... ADVOCATE**

**AND**

**COUNTY GOVERNMENT OF MERU ..... CLIENT**

**RULING**

1. On 27<sup>th</sup> May, 2021, this court allowed a Chamber Summons application by the client/respondent (then, client/applicant) dated 11<sup>th</sup> October, 2019 on the following terms: -
  - a. The time within which to file reference out of time against the decision of taxing officer delivered on 14<sup>th</sup> December, 2018 be and is hereby enlarged for a period of 14 days from the date of this ruling.
  - b. Stay of execution of the Certificate of Taxation arising out of ruling on taxation of costs in this matter delivered on 14<sup>th</sup> December, 2018 be and is hereby granted pending filing and determination of the reference as directed under (a) above.
  - c. Costs of the application in the cause.
2. Pursuant to the above ruling, the request for extension of time was granted to client/respondent to file a reference against the taxing master's award of costs. The client/applicant thus filed a reference dated 3<sup>rd</sup> June, 2021 but took no further step to set it down for hearing. This has been the case to date.
3. The present application has been occasioned by the continued indolence on the part of the Client/Respondent to take any step to prosecute the said reference.



4. By notice of motion of application dated 3<sup>rd</sup> April, 2024, the Advocate/applicant herein applied to have the court dismiss the reference dated 3<sup>rd</sup> June, 2021 for want of prosecution.
5. The application was given directions as to service and filing of responses. It was directed that it be served within 7 days and response be filed and served within 14 days from the date of service. If need be, the advocate/applicant was given leave to file a rejoinder within 14 days from the date of receipt of the response.
6. The court fixed the instant application for further directions on 5<sup>th</sup> June, 2024.
7. On the 5<sup>th</sup> of June, 2024; there was no appearance by the client/respondent; M/s Musando for the advocate/applicant informed this court that service had been effected as directed and an affidavit of service had also been filed in that regard.
8. The court has perused the affidavit of service sworn by Kyalo Kamina on 2<sup>nd</sup> May, 2024. It confirms that service was physically effected in respect of the application dated 3<sup>rd</sup> April, 2024, the submissions dated 4<sup>th</sup> April, 2024 and directions of this court dated 4<sup>th</sup> April, 2024 upon the firm of Munga Kibanga & Co. Advocates and the same was acknowledged by affixing the stamp of the firm on front page of the copies. This was on 18<sup>th</sup> April, 2024.
9. Apart from physical service, the process server further served the said documents via email to mungakibanga@gmail.com on the 2<sup>nd</sup> May, 2024.
10. It has thus been established that the client/respondent is fully aware of the application dated 3<sup>rd</sup> April, 2024 that seeks to dismiss the reference dated 3<sup>rd</sup> June, 2021 but has opted to do nothing about it. It is therefore deemed unopposed.
11. The court allows the application by the advocate/applicant with costs. The client/respondent reference dated 3<sup>rd</sup> June 2021 is hereby dismissed for want of prosecution and orders of stay conditioned upon filing of the said reference that were issued by this court on 27<sup>th</sup> May, 2021 now stand discharged.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 6<sup>TH</sup> DAY OF JUNE, 2024.**

**L N MUGAMBI**

**JUDGE**

