



Makhecha & Gitonga Advocates v Standard Group PLC (Miscellaneous Application 172 of 2020) [2023] KEHC 3837 (KLR) (Civ) (2 May 2023) (Ruling)

Neutral citation: [2023] KEHC 3837 (KLR)

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

CIVIL

MISCELLANEOUS APPLICATION 172 OF 2020

JN MULWA, J

MAY 2, 2023

BETWEEN

MAKHECHA & GITONGA ADVOCATES APPLICANT

AND

THE STANDARD GROUP PLC RESPONDENT

RULING

1. By a Chamber Summons application dated February 9, 2022, the Applicant Makhecha & Gitonga Advocates, invoking paragraph 11 (1) of the Advocates Remuneration Order seek orders for extension of time to file a reference upon being dissatisfied with the taxed costs on their Advocate/client bill of costs in the sum of Kshs 188,724/- on the 13/5/2021.

It is their desire that the said taxation be varied or set aside, upon grounds stated at the face of the application and by a supporting affidavit sworn by James Gathuri an Advocate having conduct of the matter on behalf of the applicant/advocates.

2. The impugned ruling on taxation was delivered on May 13, 2021.

It is their contention that the delay in filing the reference within the prescribed 14 days was not deliberate but because the taxing officer failed to forward to them reasons for the taxation within the 14 days.

3. In opposing the application, the Respondent filed grounds of opposition under Order 51 Rule 14 (c) of the [Civil Procedure Rules, 2010](#) stating that the reasons for the Taxation were contained in the ruling delivered on the May 13, 2021 and therefore the applicant's explanation for the delay is untenable.

4. I have considered the above as well as the submissions filed by the Applicant, dated September 21, 2022.



In the first instance, the submissions are clearly meant for the not yet filed reference, and not the application for extension of time to file the reference.

That being so, I have also considered the oral submissions tendered by Mr. Gathuri Advocate for the applicant. Once again, the submissions are on the merits of a not yet filed reference.

5. Mr. Limo Advocate for the Respondent re-emphasized that no plausible reasons were offered for the delay, and urged the court to dismiss the application as reasons for the ruling were clearly stated therein.
6. At paragraph one of the ruling dated May 13, 2021, the taxing officer stated in bold: Ruling And Reasons For Taxation.

The court is therefore at a loss as to which other reasons the applicant is seeking. The court agrees with the Respondent's submissions and grounds of opposition that the reasons for the ruling were all clearly stated at the body of the ruling and therefore the Chamber Summons is incompetent.

7. For the court to venture into the interrogation of the merits of a not yet filed reference would be jumping the gun, a procedure unknown in law.

Consequently, the application by Chamber Summons dated February 9, 2022 is dismissed with costs to the respondents.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 2ND DAY OF MAY, 2023

J. N. MULWA

JUDGE

