Odiya t/a Odiya Associates Advocates v Atenga (Miscellaneous Application E131 of 2022) [2024] KEHC 16797 (KLR) (4 December 2024) (Ruling)

Neutral citation: [2024] KEHC 16797 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MACHAKOS

MISCELLANEOUS APPLICATION E131 OF 2022

NIO ADAGI, J

DECEMBER 4, 2024

BETWEEN

JANE NYABIAGE ODIYA T/A ODIYA ASSOCIATES ADVOCATES ..... APPLICANT

AND

JOSEPHINE BONARERI ATENGA ..... RESPONDENT

RULING

1. Before me is a Reference by way of a Chamber Summons application dated 21/2/2023 by the Applicant/Advocate seeking orders under Section 1 3a of the *Civil Procedure Act*, Section 51 (2) of the *Advocates Act* and Rule 7 of the Advocates Renumeration Order that:-

    1. Spent;

    2. this decision of the Taxing Officer as evidenced in the ruling delivered on 18/01/2023 with respect to items 1, 2, 3, 7, 20 and 24in the bill of costs dated 18/10/2022 be set aside and taxed afresh by this Honourable court;

    3. in the alternative, the Honourable Court be pleased to order that the Respondent's bill of costs with respect to items 1, 2, 3, 7, 20, 24, 25 and 26 be taxed afresh by another Taxing Master;

    4. the honourable court set aside the holding of the Taxing Master to the effect that the Respondent had paid KES 90,200 (Kenya Shillings Ninety thousand two hundred) only without evidence on record to support the same and the figure was not controverted;

    5. the honourable court set aside the holding of the Taxing Master to the effect that the value of the subject matter was not stated;

    6. the costs of the application be provided.

2. The application is based on the grounds that :-

   a. The Applicant filed an amended bill of costs dated 18/10/2022 together with the Supporting List of Documents of even date.

   b. The Respondent filed a reply and submissions to the amended bill of costs dated 5/12/2022.

   c. Pursuant to the leave of the court the Applicant filed a further affidavit supporting the amended bill of costs and responding to the Respondent's Replying Affidavit filed on 28/12/2022 and submissions filed on the same date'.

   d. The Taxing Master did not consider the affidavits and the submissions filed by the Applicant.

   e. The petition subject of the bill of costs vide Form P & A clearly states that the Estate is worth Ksh.30,000,000 (Kenya Shillings Thirty Million).

   f. The Respondent only paid Ksh.40,200 (Kenya shillings Forty Thousand Two Hundred) only as per the Applicant's submission and supported by evidence and not Ksh.90,200 (Kenya Shillings Ninety-Two Hundred only).

   g. The Applicant being dissatisfied with the ruling raised an objection to the Taxing Master's ruling and filed the reference herein.

3. Parties have filed written submissions to the application. The Applicant's submissions are dated 23/10/2024 whereas the Respondent's submissions are dated 5/7/2022.

Applicant's submissions

4. The Applicant submitted that the Reference for consideration by this Honourable Court seeks to set aside the ruling delivered on 18th January 2023 by Honourable Deputy Registrar V. Ochanda. That the impugned ruling unjustly and erroneously reduced the Applicant's Bill of Costs from Ksh.812,945/- to Ksh.165,105/- a decision reached through a fundamental misapprehension of material facts, as clearly demonstrated in the pleadings, and a flawed application of legal principles.

5. That the Applicant's Bill of Costs dated 18'h October 2022, arises from Machakos High Court Succession Cause No. 52 of 2021, involving the Estate of Benafit Ogori Maeri Nyamasege (Deceased). The Applicant specifically challenges the assessment of items 1, 2, 3, 7, 20, and 24 of the Bill of Costs, which was contrary to the pleadings that were filed in court.

6. That the reduction of the Bill of Costs was premised on a failure to properly consider the pleadings, disregard of key evidence, and the improper exercise of discretion by the Court. These errors constitute a breach of settled legal principles governing the taxation of costs, warranting this Honourable Court's intervention to rectify the injustice occasioned.

7. The Applicant further submitted that their submissions are firmly grounded on the Advocates (Remuneration) Order, Cap 16, particularly Schedule 6 A, which provides that where the value of the subject matter exceedsKsh.1,000,000, instruction fees are to be calculated at Ksh.75,000 plus 1.75% on the value and exceeding Ksh.1,000,000 up to Ksh.20,000,000. Schedule 6 B, which requires that in Advocate-Client matters, the instruction fees be increased by 50%.

8. Given that the value of the Estate was Ksh.30,000,000 (Kenya shillings thirty million), as clearly indicated in their pleadings, they submitted that the court erred in law and fact by failing to adhere to the proper statutory scale of costs.

9. The Applicant has submitted on the grounds for the Reference as follows :-

a. Failure to Properly Consider the value of the subject matter -

That the Taxing Master erred in law by failing to properly account for the value of the subject matter, which was explicitly stated in Form P & A 12 as Ksh.30,000,000/- which figure was clearly reflected in the pleadings and sworn affidavits filed on 28th December 2022 and sworn on 24th December 2022. In its ruling, the court wrongfully asserted that the Applicant had failed to state the value of the subject matter. This is not true as the petition filed in court clearly states the value of the Estate as Ksh.30,000,000/-. It is upon this wrong premise that the court proceeded to justify its discretionary exercise in determining instruction fees. We submit that such an exercise of discretion, grounded in a clear omission of a material fact, amounts to an improper and unjust application of judicial discretion.

The Applicant cited a number of cases and with the guidance of the same, submitted that the Supreme Court firmly established that a Taxing Master's discretion is limited to situations where the value of the subject matter is not ascertainable from the record. In the present case, the value of Ksh.30,000,000/- was not only ascertainable but was expressly stated in the pleadings. Therefore, the courts justification for exercising discretion, as it explicitly asserted in its ruling, was both erroneous and misinformed.

They submitted that furthermore, the Supreme Court underscored that;

"(The Taxing Master) he has no leeway to disregard the statutorily commanded starting point... The starting point can only be one of the three: either the pleadings, the judgment, or the settlement. It is not open to the Taxing Officer to choose one or the other, or to use them in combination, as the provision is expressly disjunctive as opposed to conjunctive. It is also mandatory and not permissive."

That the Taxing Officer's reliance on discretion in this case is, therefore, not only misplaced but also a blatant disregard of the statutorily mandated process. The Applicant's Bill of Costs should have been taxed strictly in accordance with Schedule 6 A and 6 B of the Advocates (Remuneration) Order, using the stated value of Ksh.30,000,000 as the basis for calculation. Any deviation from this statutory requirement amounts to an error in principle, warranting intervention by this Honourable Court.

The Applicant contend that the Respondent has hired a new advocate who came on record, however, since then the Respondent never applied to amend the pleadings and then when replying to our bill of costs, they offered no proof to refute the stated value of the Estate. That this creates an estoppel on the Respondent from denying the said value.

b. Misapplication of Discretion in Awarding Instruction Fees The Applicant questioned whether the court in charge of taxing a bill of cost, can use its discretion to reduce the value of a case which has been clearly stated in the pleadings. They submitted that the Taxing Master's reliance on her discretionary power in assessing the instruction fees was fundamentally flawed. This determination was predicated on the erroneous assumption that the value of the subject matter had not been expressly indicated by the Applicant in the pleadings, when in fact, the value of Ksh.30,000,000/= was clearly stated and ascertainable. Therefore, the court did not apply discretion and the failure to recognize this value and apply the correct statutory formula under Schedule 6 A of the Advocates (Remuneration) Order constitutes a grave error in principle. The Applicant cited and relied on the case of Joreth Ltd v Kigano & Associates [2002] eKLR, where the Court of Appeal unequivocally held:

"The value of the subject matter for the purposes of taxation of a bill of costs ought to be determined from the pleadings, judgment, or settlement (if such be the case), but if the same is not so ascertainable, the taxing officer is entitled to use his discretion to assess such instruction fee as he considers just, "

That a court's discretion was commented in the case of Peter Muthoka & Joseph Mumo Kivai v Ochieng, Onyango, Kibet & Ohaga Advocates [2019] KECA 597 (KLR), the Court of Appeal emphasized:

> " The taxing officer's discretion is not a wild and unaccountable discretion but one rooted in the framework provided by law, when it is shown that there was a misdirection on some matter resulting in a wrong decision, or it is manifest from the case as a whole that the discretion was improperly exercised, resulting in misjustice, the decision, though discretionary, may properly be interfered with, "
>
> The Applicant submitted further that the discretion in taxation is not boundless but must be exercised within the statutory confines. The court's failure to adhere to the prescribed legal framework, coupled with the improper exercise of discretion, has resulted in a manifest injustice.
>
> Accordingly, they submitted that the decision of the Taxing Master should be set aside, and the Bill of Costs re-evaluated in accordance with the correct statutory provisions therefore this Honourable Court's intervention is necessary to correct the erroneous and unjust outcome resulting from the Taxing Master's misapplication of both fact and law.

c. Erroneous Reliance on Alleged Payments by the Respondent

The Applicant submitted that the court erred in fact and law by accepting the Respondent's unsubstantiated claim that Ksh.90,200/- had already been paid. This assertion was not corroborated by any documentary evidence or proof of payment. On the contrary, the presented verifiable Mpesa records clearly established that only Ksh.40,200/= had been paid, a fact that was duly affirmed in our pleadings. The Taxing Officer should not have applied reliance on unverified claims by the Respondent, without proper judicial scrutiny or consideration of the documentary evidence provided by the Applicant, constituting a failure to apply the necessary standards of proof in taxation proceedings. In matters of taxation, it is imperative that costs be assessed strictly on the basis of evidence. Any assumptions or unsubstantiated assertions, especially those not supported by documentation, ought to have been disregarded.

d. Errors in Principle Justifying Interference by the Court

Under this ground, the Applicant submitted that the errors in principle committed by the Taxing Master are substantial and necessitate the intervention of this court. That it is well established that this Court has a duty to interfere with the decision of a Taxing Master where it is shown that there has been an error in principle. They relied on the case of Peter Muthoka & Joseph Mumo Kivai v Ochieng, Onyango, Kibet & Ohaga Advocates (Civil Appeal 328 of 2017) [2019] KECA 597 (KLR), where the Court of Appeal, citing Thomas James Arthur v Nyeri Electricity Undertaking [19611, reaffirmed the principle that:

> " It has long been the law, as was stated in Arthur v Nyeri Electricity Undertaking, that where there has been an error in principle, the court will interfere, but questions

solely of quantum are regarded as matters which the taxing officers are particularly fitted to deal with, and the court will interfere only in exceptional cases.

10. The Applicant submitted that this principle imposes a clear obligation on the court to intervene where the Taxing Master has misapplied legal principles or misconstrued material facts, leading to an unjust outcome. In the present case, the Taxing Master not only failed to properly consider key facts but made a baseless assertion that the value of the subject matter was not stated in the pleadings, despite it being explicitly provided. This misapprehension of the facts, coupled with the erroneous reliance on unverified payment claims by the Respondent, resulted in a flawed and unjust assessment of costs.

11. Furthermore, that the Court of Appeal in Mbogo v Shah [1968] EA 93, held:

> " The High Court will interfere with a taxing master's decision if it is shown that there was a misdirection on some matter resulting in a wrong decision, or it is manifest from the case as a whole that the discretion was improperly exercised, resulting in injustice. "

12. That in the instant case, the Taxing Master's reduction of the Applicant's Bill of Costs from Ksh.812,945 to Ksh.165,105 was based on misinformed facts and a misapplication of discretion, leading to an inequitable outcome. They again submitted that this Honourable Court is therefore empowered, and indeed obligated, to set aside the ruling and order that the Bill of Costs be taxed afresh in accordance with the correct legal principles.

13. The Applicant also submitted on the High Court's Pecuniary Jurisdiction that it is a well-established principle of law that the High Court exercises pecuniary jurisdictionover matters where the value of the subject matter exceeds Ksh.20,000,000/- as outlined under the Magistrates' Courts Act. The fact that this matter was filed in the High Court implies that the value of the estate exceeds the jurisdiction of the lower courts, further corroborating the Applicant's assertion that the Estate was valued at Ksh.30,000,000/-. The common dictates of logic and reason would have informed the Taxing Master that the High Court's jurisdiction was based on the value of the Estate as declared in the pleadings. The decision to disregard this clear indication and invoke discretion in assessing instruction fees was, therefore, both illogical and contrary to legal standards.

14. In light of the foregoing, the Applicant concluded that it is clear that the Taxing Master committed several fundamental errors in principle in her ruling dated 18'h January 2023 and the same ought to be set aside.

Respondent's submissions

15. The Respondent in submitting on the duty of the court on a reference, equally cited the Court of Appeal case of PETER MUTHOKA (Supra) & ANOR VS. OCHIENG & 3 OTHERS (2019) eKLR where the Court held as follows with respect to the role of the Court in a reference challenging taxation: -

> " It is not lost to us, as we address that single issue, that matters of quantum of taxation properly belong in the province and competence of taxing masters. They fall within their discretion and so that High Court upon a reference will be slow to interfere with them. It is not a wild and unaccountable discretion, however, because it is at its core and by definition a judicial discretion to be exercised, not capriciously at a whim, but on settled principles. When it is shown that there was a misdirection on some matter resulting in a wrong decision, or it is manifest from the case as a whole that the discretion was improperly exercised,

resulting in mis-justice, then the decision though discretionary may properly be interfered with"

16. The Respondent sought to demonstrate and submitted that the Taxing Master applied herself properly in taxing the fees payable to the Applicant and that this Court should therefore not interfere with the decision of the taxing officer.

17. On reference and the law, the Respondent submitted that the Applicant's Advocate/Client Bill of Costs arose from succession Cause No. E052 of 2021 in the matter of the Estate of Benafit Ogori Maeri Nyamasege (Deceased). The Deceased was survived by his wife and children. The Respondent herein is the wife of the Deceased.

18. The Applicant's Bill of Costs did not indicate the value on which the Bill was based.

19. The Respondent similarly cited the Appeal Case of Joreth Limited V. Kigano & Associates [2001] 1 E.A. 92, where it was held that

> "the value of the subject matter is to be ascertained from the pleadings, judgment or settlement and where it is not ascertainable, the court is to use its discretion to assess the instruction fee but it is not to undertake a valuation of the subject.....

It also referred to the case of National Oil Corporation Limited v Real Energy Limited & another [2016] eKLR where the above case was quoted, where it was held that:

> "We would at this stage point out that the value of the subject matter of a suit for the purposes of taxation of a bill of costs ought to be determined from the pleadings judgment or settlement (if such be the case) but if the same is not so ascertainable the taxing officer is entitled to use his discretion to assess such instruction fee as he considers just, taking into account, amongst other matters, the nature and importance of the cause or matter, the interest of the parties, the general conduct of the proceedings, any direction by the trial judge and all other relevant circumstances."

20. The Respondent submitted that the Applicant erroneously based the Bill of Costs on the surety amount provided in the Affidavits of Justification of Proposed Sureties and the Affidavits of Justification of Proposed Administrators. A net worthy of an administrator or a surety is not and does not constitute the value of an estate. The Respondent has provided the correct value in its Replying Affidavit dated 5th December, 2022.

21. That the Applicant also included costs that were incurred directly by the Respondent in the Bill of Costs including the costs of undertaking land searches and the motor vehicle search and didn't deduct the amount paid by the Respondent from the Bill of Costs.

22. The Respondent submitted further that the Bill of Costs was therefore defective and it was on that basis that the taxing Master taxed the amount at Ksh.165,105/=. That the Taxing Master exercised her discretion and arrived at a fair and just fees payable to the Applicant.

23. The Respondent concluded that the Reference should be disallowed with costs to the Respondent and the ruling dated 18th January, 2023 by the taxing officer be upheld.

Analysis and Determination

24. I have considered the foregoing and this is the view I form of the matter.

25. The first issue for determination is whether the taxing Master applied herself properly in taxing the instruction fees payable to the Applicant.

In her ruling, the Taxing Master observed that for item 1 of the amended bill of costs the Applicant urged the court to award Ksh.340,000/= as instruction fees. She then cited several cases including Joreth Limited Vs. Kigano (supra), Republic Vs Minister of Agriculture & 2 Others Exparte Samuel Muchiri W Njuguna & Others (2006) eKLR, Jeremiah Muku v Methodist Church in Kenya Trustees Registered & Another (2015) eKLR, Premchand Raichard Limited v Quarry Services of East Africa Limited & Another (No.3 (1972) E.A 162 at 165 and based on the said cases, she stated that as a Taxing Master she is called upon in assessing instruction fees to consider the following factors :-

a. The nature and the importance of the cause or matter

b. The amount or value of the subject matter involved

c. The interest of the parties

d. The complexity of the matter

e. Serious preparation involved (the general conduct of the proceedings).

The Taxing Master was also guided by the case of Nyangito & Co. Advocates v Doinyo Lessos Creameries Ltd [2014] eKLR, where Odunga, J had this to say:

> " ....the full instruction fees to defend a suit are earned the moment a defence has been filed and the subsequent progress of the matter is irrelevant to that item of fees; (7) the mere fact that the defendant does research before filing a defence and then puts a defence informed of such research is not necessarily indicative of the complexity of the matter as it may well be indicative of the advocate's unfamiliarity with basic principles of law and such unfamiliarity should not be turned into an advantage against the adversary. These principles were stated in the case of First American Bank of Kenya vs. Shah and Others [2002]1 EA 64.

26. The Taxing Master observed that the Applicant had not stated that value of the subject matter involved however having regard to the general conduct of the matter she did exercise her discretion and awarded Kshs.200,000/=as instruction fees. VAT on item 1 (instruction fees) was taxed at Kshs.22,400/= hence the item in regard to VAT was taxed as such.

27. On this item, the Applicant contends that the instruction fees was explicitly stated in Form P & A 12 as Ksh.30,000,000/- which figure was clearly reflected in the pleadings and sworn affidavits filed on 28th December 2022 and sworn on 24th December 2022.

28. I have noted that no valuation report was provided to guide the Taxing Master in valuing the Estate at Kshs.30,000,000. The value of the Estate could not be determined from the pleadings filed in the Succession Cause and the Affidavits in Support of the Petition for Letters of Administration (Form P & A) in which the assets of the deceased are listed did not provide the value of the Estate; that the figure of Kshs.30,000,000 is the net worth of the proposed Administrator and Proposed Surety in Forms P& A 12 and 11 respectively and cannot be said to be the value of the Estate and therefore the value of the Estate cannot be ascertained from the pleadings given that there was no valuation report provided.

29. In addition, I have established that the Applicant only filed the Cause and attended court with no expertise or research required to carry out the instructions as the instructions entail filing of statutory

forms provided under the *Law of Succession Act*, the Cause was uncontested, simple, straight forward and therefore there is no justification in the Applicant basing instruction fees on Kshs.30,000,000.

30. The Respondent argued that a net worthy of an administrator or surety is not and does not constitute the value of the Estate which position I have agreed with herein above. The Respondent in her Replying Affidavit sworn on 5th December 2022 in response to the amended bill of costs, stated various properties purportedly belonging to the Estate with their values being Kshs.9,500,000 which she invited the Taxing Master to consider as the value of the Estate.

31. It is my considered view that there were no valuation reports that were attached to the said affidavit to confirm those values as stated by the Respondent, I find that the Taxing Master could not have relied on the value of Ksh.9,500,000 proposed by the Respondent which was not substantiated and therefore the Taxing Master rightly failed consider the same.

32. On the foregoing, I find that the Taxing Master took into account the correct principles in taxing the Bill of Costs and therefore rightly exercised her discretion in taxing the instruction fees in this matter and I will decline to interfere with her finding on this item.

33. In the ruling, I notice that the Taxing Master at page 3 line 16 stated that :-

> " The applicant vide item 7 had also urged the Taxing Master to increase the instruction fees by 50% under paragraph 1 (d) of the Advocates Remuneration Order".

34. I have looked at Item 7 in the Amended Bill of costs and the same is about production of copies of an application under certificate of urgency dated 7/10/2021 and not increase of instruction fees by 50%, this part of the ruling I believe was misplaced and is set aside although it did not affect the outcome of the ruling.

34. I find that items 2, 3 were correctly taxed off as the same were covered under item 1.

35. I also agree that Items 4-7 were equally correctly taxed as per the submissions of the Respondent having regard to the number of folios involved.

36. A perusal at the record reveals attendance before the Judge for a mention did not last more than a half an hour thus Item 20 was correctly taxed at Ksh.1900/=.

37. Item 24 was taxed off as the same was not supported by evidence to that effect and I agree with the Taxing Master on this.

38. The Taxing Master taxed the Bill of Costs at Kshs.255,305/= less Kshs.90,200/= which the Respondent illustrated she had already paid and the Applicant did not controvert that fact.

39. On the above finding, I have analysed the record, and I gather that the Respondent filed a Replying Affidavit dated 5th December, 2022.At paragraph 7 of the said affidavit, the Respondent depones as follows:-

> " That out of the agreed fees of Ksh.135,000/=, I paid the Respondent an aggregate of Ksh.90,200/=. The amount of Ksh.50,000/= was paid by cash in instalments of Ksh.20,000/=, then Ksh.10,000/= and Ksh.20,000/= and the amount of Ksh.40,000/= was paid by Mpesa in instalments of Ksh.10,000/= , then Ksh.10,200/= and Ksh.20,000/=. Please find attached and marked "JBA1" Mpesa confirmation messages for the amounts paid by Mpesa.

40. A glimpse at the above paragraph reveals that the Respondent allegedly paid the Ksh. 90,200/= in two ways. First, by cash and second, by Mpesa. I have not come across any evidence in proof of the cash payment. Further, I have not come across the attachment marked "JBA1". What is attached to the Replying Affidavit is a Certificate of Electronic Records in which the Respondent at paragraph *1*, stated that she wished to produce exhibits identified in her Replying Affidavit dated 5th December 2022 and she listed them as follows:-

    i. Mpesa confirmation message Reference Numbers QADOJVY5J2 for the amount of Kshs.10,000/= sent to Jane Nyabige;

    ii. Mpesa confirmation message Reference Numbers PLOOLP90ZK for the amount of Kshs.10,200/= sent to Jane Nyabige;

    iii. Mpesa confirmation message Reference Numbers PJ49RSHS31for the amount of Kshs.10,000/= sent to Jane Nyabige;

41. On the foregoing, I am equally not convinced that the Respondent proved or rather illustrated the Mpesa payments were made to the Respondent as held by the Taxing Master. The Respondent would have been expected to obtain certified Mpesa Transactions Statements from SAFARICOM or at worse to take screen shots of the particular transactions. It is difficult for this court to ascertain when the Mpesa transactions were made in the absence of the dates and times that are critical in any Mpesa transaction. It is unknown when the payments were made. What appears in the Certificate of Electronic Print are typed transactions which cannot be verified in the manner presented.

42. Once more I find that the Mpesa payments to the Applicant were not strictly proved.

43. I therefore find that the Taxing Master erred in principle in relying on unverified amounts claimed by the Respondent whereby she erroneously deducted Ksh.92,200/= from the award of Ksh.255,305/=.

44. The circumstances under which a Judge of the High Court interferes with the taxing officer's exercise of discretion are now well known. These principles are :-

    (1) that the Court cannot interfere with the taxing officer's decision on taxation unless it is shown that either the decision was based on an error of principle, or the fee awarded was manifestly excessive as to justify an inference that it was based on an error of principle;

    (2) it would be an error of principle to take into account irrelevant factors or to omit to consider relevant factors and, according to the Order itself, some of the relevant factors to be taken into account include the nature and the importance of the cause or matter, the amount or value of the subject matter involved, the interest of the parties, the general conduct of the proceedings and any direction by the trial judge;

    (3) if the Court considers that the decision of the Taxing Officer discloses

    (4) it is within the discretion of the Taxing Officer to increase or reduce the instruction fees and the amount of the increase or reduction is discretionary;

    (5) the Taxing Officer must set out the basic fee before venturing to consider whether to increase or reduce it;

    (6) the full instruction fees to defend a suit are earned the moment a defence has been filed and the subsequent progress of the matter is irrelevant to that item of fees;

(7) the mere fact that the defendant does research before filing a defence and then puts a defence informed of such research is not necessarily indicative of the complexity of the matter as it may well be indicative of the advocate's unfamiliarity with basic principles of law and such unfamiliarity should not be turned into an advantage against the adversary.

These principles were stated in the case of First American Bank of Kenya vs. Shah and Others [2002] 1 EA 64.

45. Accordingly, I set aside the assessment by the Taxing Master deducting Kshs.90,200/= from the taxed amount of Ksh.255,305/= and hold that the Applicant was entitled to the entire taxed amount of Ksh.255,305/= which I award plus costs of this application.

46. It is so ordered.

RULING WRITTEN, DATED AND SIGNED AT MACHAKOS THIS 4TH DECEMBER 2024.

NOEL I. ADAGI

JUDGE

DELIVERED VIRTUALLY ON TEAMS AT MACHAKOS THIS 4TH DECEMBER 2024

In the presence of :

Ms Odiya..... for Applicant

Mr. Mogutu..... for Respondent

MillyGrace..... Court Assistant