



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KIAMBU**  
**CIVIL CASE MISCELLANEOUS APPLICATION NOS. 220-228 OF 2019**  
**IN THE MATTER OF ADVOCATES – CLIENT BILL OF COSTS**  
**BETWEEN**  
**SOPHIE CHIRICHIR T/A CHERONO CHIRICHIR & CO. ADVOCATES...APPLICANT**  
**VERSUS**  
**AFRICA MERCHANT ASSUREANCE CO. LTD.....RESPONDENT**  
**RULING**

1. The law firm **SOPHIE CHIRICHIR T/A SOPHIE CHIRICHIR & CO. ADVOCATES** filed an advocate/client bill of costs on 17<sup>th</sup> June, 2019. That bill of costs was considered by the taxing master of this Court and the taxing master reserved his ruling to 9<sup>th</sup> April, 2020. The court proceedings do not show what, if anything occurred on 9<sup>th</sup> April, 2020. The proceeding of 28<sup>th</sup> May, 2020 however, shows as following:-

**“Before Hon. W. Rading, SRM/DR**

**Maurice C/A**

**N/A by parties**

**Court: Ruling delivered in absence of parties.**

***Signed***

***D.R.”***

2. Indeed, the taxation Ruling of the taxing master is in the file and it is dated 28<sup>th</sup> May, 2020.

3. Before court is a chamber summons dated 23<sup>rd</sup> October, 2020. That application is filed by the law firm. The application is for the following order:-

**“THAT this honourable court be pleased to enlarge the time for issuing a notice for objection to the taxing officer’s taxation pursuant to the Ruling delivered on 28<sup>th</sup> May, 2020.”**

4. The affidavit in support of the application was sworn by **Sophie Chirchir Advocate**. She deponed that the taxation Ruling was initially scheduled for 9<sup>th</sup> April, 2020 but was not delivered due to the disruption of the court’s operation because of the COVID-19 pandemic outbreak. That although that Ruling was delivered on 28<sup>th</sup> May, 2020 her law firm was unaware of its delivery. That the law firm is dissatisfied with the taxation Ruling and wishes to file objection and a reference before this Court. The law firm is therefore seeking that it be permitted to file the objection and reference out of time as provided under paragraph 11 of the Advocates (Remuneration) Order.

5. Although the application was served there was no opposition filed by the respondent and the respondent also failed to attend the hearing of the same.

## ANALYSIS

6. Objection to the decision of the taxing master is under Parall of the Advocates (Remuneration) Order which provides as follows:-

### 11. Objection to decision on taxation and appeal to Court of appeal.

(1) Should any party object to the decision of the Taxing Officer, he may within fourteen days after the decision give notice in writing to the taxing officer of the items of taxation which he objects

(2) The Taxing Officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by Chamber Summons, which shall be served on all the parties concerned, setting out the grounds of his objection.

(3) Any person aggrieved by the decision of the judge upon any objection referred to such judge under subparagraph (2) may, with the leave of the judge but not otherwise, appeal to the Court of appeal.

(4) The High Court shall have power in its discretion by order to enlarge the time fixed by subparagraph (1) or subparagraph (2) for the taking of any step; application for such an order may be made by Chamber Summons upon giving to every other interested party not less than three clear days' notice in writing or as the Court may direct, and may be so made notwithstanding that the time sought to be enlarged may have expired. (Emphasis mine)

7. How the court should exercise the discretion to extend the time of filing the objection to a taxing master, as per paragraph 11(4) of the Advocates (Remuneration) Order was discussed by the High Court in the case SUNSAND DUNES LIMITED VS. RAIYA CONSTRUCTION LIMITED 2020 eKLR as follows:-

**“The other case on all four corners to the present application is the Court of Appeal decision in PAUL WANJOHI MATHENGE V DUNCAN GICHANE MATHENGE [2013] eKLR where the Court stated as follows:**

**“The discretion under Rule 4 is unfettered but it has to be exercised judicially, not on whim, sympathy or caprice. I take note that in exercising my discretion I ought to be guided by consideration of the factors stated in the previous decisions of this Court, including, but not limited to, the period of delay, the reasons for the delay, the degree of prejudice to the respondent and interested parties if the application is granted, and whether the matter raises issues of public importance.”**  
**(See LEO SILA MUTISO V ROSE HELLEN WANGARI MWANGI Civil Application No. 255 of 1997).”**

8. Having in mind the above case, I note that the delay to file the objection is from May, 2020 upto when the present application was filed, that is, on 27<sup>th</sup> October, 2020. The reason for the delay is because the law firm was not informed of the delivery of taxation Ruling. In view of the respondent having not filed any opposition to the application, it follows in my view that the respondent will not be prejudice by the orders that this Court will grant.

## DISPOSITION

9. In the end I find the law firm has sufficiently met the condition for this Court to exercise its discretion under paragraph 11(4) of the Advocates (Remuneration) Order. I therefore grant the following orders:-

“(a) The time for filing Notice of objection to the taxation Ruling of 28<sup>th</sup> May, 2020 is hereby enlarged. Such objection shall be filed within 14 days from today's date.

(b) The costs of the chamber summons dated 23<sup>rd</sup> October, 2020 are awarded to the applicant/law firm.

**RULING DATED AND DELIVERED AT KIAMBU THIS 1<sup>ST</sup> DAY OF JULY, 2021.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant : Ndege

For the Applicant: Ms. Chirchir

For the Respondent : No Appearance

**COURT**

Ruling delivered virtually.

**MARY KASANGO**

**JUDGE**