



**M'Ibere v Marete & another (Miscellaneous Application  
E015 of 2024) [2025] KEELC 4701 (KLR) (23 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4701 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO  
MISCELLANEOUS APPLICATION E015 OF 2024**

**JO MBOYA, J  
JUNE 23, 2025**

**BETWEEN**

**FREDRICK MUTHAMIA M'IBERE ..... APPLICANT**

**AND**

**EVANGELINE KAJUJU MARETE ..... 1<sup>ST</sup> RESPONDENT**

**SIMON MUGAMBI MARETE ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The Applicant filed a document stated to be [sic] a Reference dated the 27<sup>th</sup> day of March 2024 and which is shown to be brought pursuant to schedule VI of the [Advocates Remuneration Order](#) and the Order issued by this Honourable Court vide its Ruling dated the 20<sup>th</sup> March 2024.
2. At the foot of [sic] the Reference, the Applicant has then drawn a table relating to the Costs, or better still, showing the item[s] sought to be Taxed. Instructively, what is indicated to be a reference is indeed a Bill of Costs drawn in accordance with Rule 69 of the [Advocates Remuneration Order](#) [ARO].
3. The subject reference [Matter] came up before the Deputy Registrar on the 27<sup>th</sup> July 2024 whereupon the Advocates for the parties could not agree on whether the Deputy Registrar was seized of the Jurisdiction to hear the matter.
4. Subsequently, the Learned Deputy Registrar made an Order on the 6<sup>th</sup> March 2025 that the subject matter be placed before the Judge for Hearing and disposal. To this end, the matter was duly placed before me on the 19<sup>th</sup> day of May 2025, whereupon I directed the parties to file and exchange written submissions. Moreover, I also circumscribed the timelines for filing the written submissions.
5. Pursuant to the directions issued on the 19<sup>th</sup> day of May 2025, the parties herein proceeded to and filed written submissions. In particular, the Applicant filed written submissions dated the 14<sup>th</sup> June 2024 [but which ought to be 14<sup>th</sup> June 2025].



6. The Respondent also filed its written submissions. For good measures, the two sets of written submissions are on record.
7. Having appraised myself of the nature and contents of the document [sic] reference dated the 27<sup>th</sup> day of March 2024; and upon taking into account the written submissions filed by and on behalf of the parties; and having reviewed the applicable Law; I come to the conclusion that the matter beforehand does not fall for the determination by the Judge.
8. Furthermore, it is evident and apparent that the Applicant herein does not seem to appreciate the difference between a Bill of Costs for Taxation before the Deputy Registrar of the court and a Reference.
9. To this end, it is important to remind Learned Counsel for the Applicant that a Bill of Costs is drawn in line with Rule 69 of the Advocates Remuneration Order, albeit taking into account the applicable schedule as provided for under the law. Moreover, it is for the party concerned to discern under which scheduled the Bill is to be taxed and thereafter prepare the Bill for Taxation.
10. On the other hand, a Reference strictu sensu [in strict sense] only arises after the Deputy Registrar/Taxing Officer of the Court has taxed the Bill of Costs as presented before him or her. Where a party is aggrieved by the Certificate of Taxation [which only arises after taxation] the party aggrieved is called upon to lodge a Notice of Objection to Taxation within 14 days of the issuance of the Certificate of Taxation.
11. Additionally, it is common ground that upon receipt of the reasons for the Taxation, which ordinarily follow after the issuance of the Notice of Objection to Taxation, the aggrieved party [Applicant] is then called upon to file a Reference by way of Chamber Summons.
12. The procedure to be deployed in filing a Reference is well captured vide Rule 11 of the *Advocates Remuneration Order* [ARO]. The said provisions stipulate as hereunder:
  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 to 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 subsection [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 already expired.



13. Furthermore, the procedure to be deployed while undertaking a Reference was succinctly elaborated by the Court of Appeal in the case of *Machira & Co. Advocates v Arthur K. Magugu & another* [2012] KECA 245 [KLR] where the Court stated thus:

11. Two points were argued on the issue of whether or not the Respondents' reference was competent. The first one related to the time within which the reference should have been lodged and the second to the basis of the reference. As both of them are based on Rule 11 and for ease of reference we wish to set it out verbatim. It reads:

“ 11

- [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 to 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 already expired.”
- [5] Sub-rule [1] requires the party objecting to give notice in writing within 14 days “of the items of taxation to which he objects.” As the trial judge correctly found, the Respondents notice of 1<sup>st</sup> August 2001 did not comply with that provision. It did not specify the items objected to so that the taxing officer could give his reasons on them.

14. Flowing from the following observations, it must have become apparent that the Applicant herein is responsible for the confusion surrounding the instant matter. Had the Learned Counsel for the Applicant appraised himself of the law, same would no doubt have titled the document properly.

15. Be that as it may, there is no gainsaying that what is beforehand is a Bill of Costs for Taxation and thus same falls within the Jurisdictional remit of the Deputy Registrar [Taxing Officer of the Court].



16. In the circumstances, the final Orders plus directions of the Court are as hereunder:

- i. The Bill of Costs dated the 27<sup>th</sup> March 2024 [but erroneously stated to be a Reference] shall be placed before the Taxing Officer for purposes of Taxation in accordance with the applicable law.
- ii. The matter shall be mentioned before the Taxing Officer within 2 weeks of the delivery of the Ruling.
- iii. The Costs attendant to this proceeding[s] shall abide the outcome of the Taxation by the Taxing Officer.

17. It is so Ordered.

**DATED, SIGNED AND DELIVERED AT ISIOLO THIS 23<sup>R</sup>DAY OF JUNE 2025**

**OGUTTU MBOYA, FCIArb; [MTI-EA].**

**JUDGE**

In the presence of:

Mukami/Mutuma – Court Assistants

Mr. Mugambi for the Applicant

Mr. Leonard Ondari for the Respondents.

