



**Chaudri & Associates Advocates v Robert Bosch East Africa Limited (Miscellaneous Application E363 of 2024) [2025] KEELRC 2435 (KLR) (15 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2435 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E363 OF 2024  
BOM MANANI, J  
SEPTEMBER 15, 2025**

**BETWEEN**

**CHAUDRI & ASSOCIATES ADVOCATES ..... ADVOCATE**

**AND**

**ROBERT BOSCH EAST AFRICA LIMITED ..... CLIENT**

**RULING**

**Background**

1. The Client (hereafter referred to as the Applicant) was sued by one of its employees *vide* ELRC Cause No. 656 of 2019 for unlawful termination of the employee's contract of service. The parties agree that the employee prayed for, inter alia, an award of Ksh. 79,644,600.96 to represent salary for sixteen years which he allegedly lost as a result of his dismissal from employment.
2. The Client appointed the Advocate (hereinafter referred to as the Respondent) to represent it in the cause. The parties agree that the suit was heard and judgment delivered on 16<sup>th</sup> April 2024 where the employee was awarded the sum of Ksh. 829,631.26 as compensation for unfair termination of his contract of service. He was also awarded costs of the case and interest on the amount awarded.
3. The court record shows that the Respondent filed the Advocate-Client Bill of Costs dated 11<sup>th</sup> December 2024 seeking to ascertain the fees the Applicant was to pay it (the Respondent) for the services it had rendered. In the Taxing Master's ruling dated 27<sup>th</sup> February 2025, he assessed the aforesaid Bill of Costs at Ksh. 3,971,195.04.
4. The Taxing Master assessed instruction and getting up fees in the Bill based on the sum of Ksh. 79,644,600.96 which had been claimed in the Statement of Claim in the primary suit as opposed to the sum of Ksh. 829,631.26 which was awarded in the judgment.



5. Aggrieved by the ruling, the Applicant filed the instant reference dated 3<sup>rd</sup> March 2025. The primary issue which the Applicant raises in the matter is whether the Taxing Master committed an error of principle by relying on the figure pleaded in the Statement of Claim as opposed to the sum of Ksh. 829,631.26 awarded by the trial court as representing the value of the subject matter of the dispute in the primary suit.
6. The Respondent has opposed the reference. It contends that the application is defective for want of compliance with the procedure for filing a reference.
7. According to the Respondent, the Applicant ought to have requested the Taxing Master for reasons for his decision before it could file the reference. The Respondent contends that the failure to request for these reasons renders the reference incompetent.
8. The Respondent further contends that the Applicant has not demonstrated that the Taxing Master committed an error of principle whilst taxing the Bill of Costs to warrant the setting aside of his orders. It contends that the Taxing Master exercised his discretion correctly and was entitled to rely on the figure in the Statement of Claim as representing the value of the subject matter.

### **Analysis**

9. The law on taxation of costs in a suit is now well settled. Under rule 11 of the [\*Advocates Remuneration Order\*](#), a party who is aggrieved by a taxation order is entitled to present a reference if he is able to demonstrate that the Taxing Master committed an error of principle in the taxation process. However, the law requires such party to file an objection to the items in respect of which he wishes to challenge the taxation order. Once the objection is filed, the Taxing Master ought to provide reasons for his decision on the contested items to enable the aggrieved party to file the reference.
10. Whilst the law is couched in the aforesaid terms, it has been held that the requirement of filing an objection to a taxation order and calling for reasons from the Taxing Master before one can file a reference is not mandatory where the taxation ruling contains the reasons for the decision. In such case, the aggrieved party may file the reference without first filing the objection (see [\*Kotut v Kipngok & Another\*](#) (Environment and Land Miscellaneous Application E019 of 2024) [2024] KEELC 6133 (KLR) (25 September 2024) (Ruling) & [\*National Bank of Kenya Limited v Singh Gitau Advocates\*](#) [2021] eKLR).
11. The ruling which was delivered by the Taxing Master in the instant dispute contains the reasons for the decision. As such, the Applicant was not obligated to file an objection to the taxation order before it could file the instant reference. In the premises, the objection by the Respondent to the competence of the reference on this account must and hereby fails.
12. In order to determine the value of the subject matter during taxation, the Taxing Master is required to be guided by the pleadings, settlement between the parties or judgment of the court (see [\*Joreth Limited v Kigano & Associates\*](#) [2002] KECA 153 (KLR)). However, he/she should only resort to the pleadings where judgment has not been pronounced to set the true value of the subject matter. Where there is a judgment on record, he/she should be guided by the judgment to determine the value of the subject matter.



13. The foregoing was pronounced by the Court of Appeal in the case of *Peter Muthoka & another v Ochieng & 3 others* [2019] KECA 597 (KLR) where the learned Judges of the court observed as follows on the subject:-

“It seems to us quite plain that the basis for determining subject matter value for purposes of instruction fees is wholly dependent on the stage at which the fees are being taxed. Where it happens before judgment, it is the pleadings that form the basis for determining subject value. Once judgment has been entered, and for what seems to us to be an obvious reason, recourse will not be had to the pleadings since the judgment does determine conclusively the value of the subject matter as a claim, no matter how pleaded, gets its true value as adjudged by the court.”

14. In the instant dispute, although the employee had claimed for Kenya Ksh. 79,644,600.96 from the Applicant, the trial court awarded him compensation of Ksh. 829,631.26. As such, the value of the subject matter in the suit was the sum of Ksh. 829,631.26 pronounced in the court’s judgment and not Ksh. 79,644,600.96 pleaded by the employee.
15. Despite this reality, the Taxing Master’s ruling shows that he considered the amount pleaded in the Statement of Claim as opposed to the sum of Ksh. 829,631.26 in the judgment to determine instructions and getting up fees. This was an error of principle. As such, the taxation order is set aside and the matter remitted for fresh taxation.

#### **Determination**

16. The court finds that the Taxing Master committed an error of principle in taxing the Bill of Costs dated 11<sup>th</sup> December 2024.
17. As such, the taxation order which was issued on 27<sup>th</sup> February 2025 is hereby set aside.
18. The court orders that the aforesaid Bill of Costs be placed before another Taxing Master of the court for fresh taxation.
19. The Taxing Master to take into account the observations made in this ruling whilst re-taxing the Bill of Costs.
20. Each party to bear own costs of the reference.

**DATED, SIGNED AND DELIVERED ON THE 15<sup>TH</sup> DAY OF SEPTEMBER, 2025**

**B. O. M. MANANI**

**JUDGE**

In the presence of:

..... for the Applicant

.....for the Respondent

order

In light of the directions issued on 12<sup>th</sup> July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent, the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

