



**Naviava v Edwin Wawire Wafula t/a Wafula Wawire & Co Advocates (Miscellaneous Application E032 of 2024) [2024] KEELRC 1094 (KLR) (15 May 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1094 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU  
MISCELLANEOUS APPLICATION E032 OF 2024**

**S RADIDO, J**

**MAY 15, 2024**

**BETWEEN**

**JOHN SAUL NAVIAVA ..... APPLICANT**

**AND**

**EDWIN WAWIRE WAFULA T/A WAFULA WAWIRE & CO  
ADVOCATES ..... RESPONDENT**

**RULING**

1. The firm of Wawire & Co. Advocates represented John Saul Naviava (applicant) in Kisumu Cause No. 7 of 2020, John Saul Naviava v County Public Service Board, Vihiga, after which the advocate caused his Bill of Costs to be taxed on 5 March 2024 at Kshs 149,745/-.
2. On the 8 March 2024, the applicant moved the Court seeking leave to settle the costs in monthly instalments of Kshs 20,000/-.
3. The Court directed the applicant to serve the advocate for further proceedings on 19 March 2024.
4. When the application was called out on 19 March 2024, the advocate was absent. The applicant informed the Court that he had served the advocate but the Court was not satisfied with the service and directed that he serves again ahead of further proceedings on 16 April 2024.
5. Come 16 April 2024, the Court was again not satisfied with the service and the applicant was directed to effect service physically/personally. The Court set 23 April 2024 for further proceedings.
6. On 18 April 2024, the applicant filed an affidavit of service attesting to service and acknowledgement of the service by the advocate. The advocate stamped on a copy of the application.
7. When the application came up on 23 April 2024 and the Court being satisfied with the service allowed the applicant to make brief oral submissions.



8. The Court has considered the Motion, affidavit in support and brief oral submissions by the applicant.
9. The Court is called upon to exercise its discretion. The advocate was served but failed to respond to the application or attend at the hearing.
10. The Court also notes that there is no evidence that the advocate threatened to execute for the taxed costs.

### **Orders**

11. Considering the above, the Court will allow the Motion dated 8 March 2024, in terms that the applicant liquidates the taxed costs in equal monthly instalments of Kshs 20,000/- from today and in default, the advocate be at liberty to apply.
12. Costs in the cause.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 15<sup>TH</sup> DAY OF MAY 2024.**

**RADIDO STEPHEN, MCI Arb**

**JUDGE**

### **Appearances**

Applicant in person

Respondent did not participate

Court Assistant Chemwolo

