



**Rantaine v Paro (Environment and Land Miscellaneous Case
E005 of 2025) [2025] KEELC 6207 (KLR) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6207 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KILGORIS
ENVIRONMENT AND LAND MISCELLANEOUS CASE E005 OF 2025
MN MWANYALE, J
SEPTEMBER 25, 2025**

BETWEEN

GEORGE SAITOTI RANTAINÉ APPLICANT

AND

PHILEMON KIMANYAL OLE PARO RESPONDENT

RULING

1. This Ruling is in respect of the reference dated 5th May 2025, against the Ruling on taxation delivered on 21st March 2025.
2. In the said Reference, a challenge is made with respect to items 1, 2, 3, 4, 5, 6, 7, 19, 20, 21, 22, 40 and 41 in the Bill of Costs dated 03.02.2023 which the Applicant seeks to set aside and/or vacate.
3. The relevant provision with regard to filing of a reference is paragraph 11 of the [Advocates Remuneration Order](#).
4. A Response to the reference was filed vide the Replying affidavit of Winnie Maureen Mireri Esq Advocate; and in which she raised inter alia that the Reference does not meet the requirements outlined in paragraph 11(1) and (2) of the [Advocates Remuneration Order](#); thus, the Reference is an abuse of the court process and devoid of merits.
5. Among the issues raised in the affidavit in support of the reference is the issue that no reasons were given in the Ruling in the taxation, that he had sought for the reasons and issues in the case were not complex and was taxed capriciously by the taxing officer.
6. The Applicant further indicated that he was proceeding with ELC LA No. 37 which was a continuation of the withdrawn Appeal No. E001/2023, and that a new file number did not create a basis for the claim of the fees.



7. From the Reference it is clear that the Bill of Costs filed was in respect of an Appeal No. ELCA No. 001/2023 which was withdrawn with costs before it was heard and another Appeal was filed. The parties were thus entitled to file the Bill of Costs which they did and a certificate of costs issued, hence this reference.
8. The reference proceeded by way of written submissions, which the court has considered and proceeds to frame the following as issues for determination.
 - i. Whether or not there is a competent reference before court?
 - ii. Whether the reference is merited?
 - iii. Who bears the cost of the reference?

Analysis and Determination

9. The first issue framed arises from the issues raised in the Replying affidavit that the reference offends paragraph 11(1) and (2) of the [Advocates Remuneration Order](#).
10. The said paragraph is the one that gives jurisdiction to the court to hear and determine references and hence the competence or otherwise of the reference is a jurisdictional issue.
11. Rule 11 of the [Advocates Remuneration Order](#) provides; -
 - “(i) Should any part object to the decision of the taxing master, he may within fourteen days after the decision give notice in writing to the taxing officer of the items to which he objects.
 - (ii) The taxing shall forth record and forward to the objector the reason for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to the Judge by chamber summons which shall be served on all the parties concerned setting out the grounds on his objection.
 - (iii)
 - (iv) The High Court shall have power in its discretion to enlarge time fixed by subparagraph 1 or subparagraph 2 for the taking of any steps, application for such an order may be made by chamber summons upon giving to every other interested parties 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...”
12. The decision of the taxing master was delivered on 21st day of March 2025, in the form of a Ruling.
13. Although the Applicant, submitted that he sought for the reasons for the decision, the said letter requesting the same was not placed before the court. The Applicant had 14 days to request for reasons for the taxation and to file a reference within 14 days after receipt of the same.
14. The Applicant did not request for reasons meaning then he had to file the reference within 14 days after delivery of the Ruling. The Ruling in respect of the taxation was delivered on 21.03.2025 and the reference herein filed on 05.05.2025.

Certainly, the same was filed out of time and no leave was sought for extension of time as required under Rule 11(iv); making the reference before court incompetent.



15. In *Imarika Sacco Vs. Katana* Miscellaneous Reference E015/2024 Ruling Ocharo J. faced with a similar situation where a reference was filed out of time, held that the court had no jurisdiction to entertain a reference filed out of time; and dismissed the same.

16. A similar finding was made by the High Court in the decision in the case of *Ms. Lubelelab and Associates Advocates Vs. N.K. Brothers Limited* Miscellaneous Civil Case 52/2012 (2014) KEHC 7393 where at paragraphs 41 and 42 as follows;

“41 Bearing all facts the court finds itself more persuaded by the Respondents submissions that the present application was filed out of time and without orders of the court to enlarge time to allow its filing.

42. On this ground the court finds that the Applicant would not succeed on the reference...”

Disposition

17. Consequent of the above findings the conclusion is that the Reference filed vide the Notice of Motion dated 05.05.2025 having been filed out of time, is hereby struck out with costs, and the court shall not dwell on the other issues which touch on its merits.

18. Accordingly, the Reference is struck out with costs to Respondent.

DATED AT KILGORIS THIS 25TH DAY OF SEPTEMBER, 2025.

HON. M.N MWANYALE

JUDGE

In the presence of

CA – Emmanuel/Sylvia/Sandra

Ms. Mireri for Respondent

N/A for the Applicant acting in person

