



Mount Kenya University v Step Up Holdings Limited (Environment and Land Case 196 of 2024) [2025] KEELC 6961 (KLR) (15 October 2025) (Ruling)

Neutral citation: [2025] KEELC 6961 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND CASE 196 OF 2024
MAO ODENY, J
OCTOBER 15, 2025**

BETWEEN

MOUNT KENYA UNIVERSITY PLAINTIFF

AND

STEP UP HOLDINGS LIMITED DEFENDANT

RULING

1. This ruling is in respect of the Defendant/Applicant's Chamber Summons application dated 6th August, 2024, which seeks the following orders:
 - a. That this Honourable Court be pleased to enlarge the time within which the Defendant/Applicant is to give notice in writing to the taxing officer of the items of taxation to which they object.
 - b. That the costs of this application be provided for.
2. The application is supported by the annexed affidavit of Samson M. Omae, the Defendant/Applicant's counsel sworn on 6th August, 2024, where he deponed that on 9th May, 2024, he attended court before the Deputy Registrar and took a ruling date, 4th July, 2024. He further deponed that he noted the ruling date in his file but failed to do so in his diary, hence the same was delivered without him filing and serving any Notice of Objection to taxation on behalf of the Defendant.
3. The Defendant/Applicant's counsel further deponed that the Defendant is desirous of filing a reference against the taxation and he believes that the inadvertent mistake of counsel should not be visited upon a client.
4. Lawrence Macharia Karanja, the Plaintiff/Respondent's counsel filed a Replying Affidavit sworn on 21st May, 2025, and deponed that the application is an abuse of court process as the timelines for objecting to the taxation have always been within the Defendant's counsel's knowledge.



5. He further stated that after the ruling of 4th July, 2024, counsel requested the account details for purposes of settlement and upon receipt of the funds from his client, he promptly issued and dispatched the cheque to the Applicant's counsel, which was duly acknowledged. The Plaintiff/Respondent's counsel deponed that unless this Honourable Court dismisses the present application, the Respondent stands to suffer prejudice by being dragged back into a process that should have long been concluded.
6. Samson M. Omae filed a Further Affidavit sworn on 17th June, 2025, and deponed that he only learnt of the delivery of the ruling on 2nd August 2024, when he received a cheque in partial settlement of the taxed costs and thereafter he brought the instant application promptly. He deponed that the matter is still active as the Defendant has only been paid Ksh 400,000/= out of Ksh 411,725/=.

Defendant/Applicant's Submissions

7. Counsel for the Defendant/Applicant filed submissions dated 17th June, 2025, and identified the issue for determination, as whether the time within which the Defendant/Applicant is to give notice in writing to the taxing officer of the items of taxation to which they object should be enlarged.
8. Counsel relied on the case of Nicholas Kiptoo Arap Korir Salat vs Independent Electoral and Boundaries Commission & 7 others [2014] eKLR, and submitted that the application was brought without inordinate delay as the taxing officer delivered the ruling on 4th July, 2024. It was counsel's submission that the fourteen days within which the Defendant would have served a Notice of Objection lapsed on 18th July, 2025 and the instant application was brought on 12th August, 2024, exactly one month following the lapse of the prescribed period.
9. Counsel relied on the cases of Mutua Mwangangi & Another vs James Mutua Mutio [2016] KEHC 6240 (KLR), Mumias Sugar Company Limited vs Tom Ojienda & Associates [2018] KEHC 7836 (KLR), Peter Macahria Kariuki vs James Kibara & another [2020] KEELC 1514 (KLR), and urged the court to allow the application as the Plaintiff will not suffer any prejudice.

Plaintiff/Respondent's Submissions

10. Mr. Karanja, counsel for Plaintiff/Respondent, filed submissions dated 9th July, 2025, and identified the following issues for determination:
 - a. Whether this Honourable Court ought to exercise its discretion in favour of the Defendant/Applicant by enlarging the time for issuance of notice under Rule 11 (1) of the Advocates (Remuneration) Order?
 - b. Whether the Defendant/Applicant has offered a reasonable and satisfactory explanation for the delay in giving notice to the taxing officer under Rule 11 (1) of the Advocates (Remuneration) Order?
 - c. Whether the costs should issue?
11. On the first issue, counsel submitted that the official court attendance records confirm that Mr. Ratemo has at all material times been the advocate on record for the Applicant, who had actual knowledge of the ruling delivered on 4th July, 2024, and was engaged in the settlement thereafter.
12. Counsel submitted that Mr. Ratemo bore the obligation to take appropriate steps within the timelines prescribed by Rule 11(1) of the Advocates (Remuneration) Order, and relied on the case of Iimbani Dispensary Project vs Abdi (Miscellaneous Application 195 of 2019) [2024] KEELC 5569.



13. On the second issue, Mr. Karanja submitted that the Applicant’s counsel had both the knowledge of the ruling and the means (other than his physical diary) to act promptly but chose not to. Further that the delay has not been explained and urged the court to dismiss the application with costs to the Respondent. Counsel relied on the case of *Nicholas Kiptoo Arap Korir Salat vs Independent Electoral and Boundaries Commission & 7 others* [2014] eKLR.

Analysis and Determination

14. The issue for determination is whether this Honourable Court ought to exercise its discretion in favour of the Defendant/Applicant to enlarge the time for issuance of a notice to object to the taxation. Counsel gave the reason for failure to file the notice within the stipulated time as not noting the ruling date in his diary and that a mistake by counsel should not be visited on the client. Counsel also stated that he filed the application within one month which he considered not inordinate and urged the court to allow the application as prayed.
15. A party that is aggrieved by the Taxing Master’s award, must follow the procedure as provided under the ARO. Rule 11 of the ARO states:

“ 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.”

16. In the case of *Twiga Motor Limited Vs. Hon. Dalmis Otieno Onyango* [2015] eKLR, the Court stated that:

“The limits in Rule II of the Advocates Remuneration Order have been put there for a reason. Failure to adhere to the said timelines would mean that the application would be rendered incompetent in the first instance.”



17. There are rules and procedures put in place to govern how litigation is conducted to ensure orderliness, predictability, fair trial and proper administration of justice. If there were no rules, it can lead to injustice and risk of abuse.
18. It is not in dispute that a ruling was delivered and that Mr. Ratemo has been in the conduct of this case, including at the settlement stage. Counsel for parties have stated that they requested the settlement details of which the Applicant issued a cheque of Kshs. 400,000/= leaving a balance of Kshs. 11,725/ only. This indicates that, counsel together with the Applicant, were aware of the Ruling and if they wanted to file an objection Notice, they could have done so within the stipulated time.
19. Counsel has not explained the fact that they engaged in the settlement and subsequently paid 98% of the decretal sum, and further that Mr. Ratemo, who was at all material time in the conduct of the case had knowledge of the ruling date.
20. I find that the Chamber Summons application dated 6th August, 2024 lacks merit and is hereby dismissed with costs.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 15TH DAY OF OCTOBER 2025.

M. A. ODENY

JUDGE

