



Maurizio & 3 others v SBM Bank & 2 others (Environment & Land Case 143 of 2018) [2025] KEELC 4500 (KLR) (12 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4500 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 143 OF 2018**

**EK MAKORI, J
JUNE 12, 2025**

BETWEEN

**NARDIELO MAURIZIO 1ST PLAINTIFF
MAURIZIO CAPORDARCA 2ND PLAINTIFF
TESTA GIANCARLO 3RD PLAINTIFF
FREDRIGA GIANCARLO 4TH PLAINTIFF**

AND

**SBM BANK 1ST DEFENDANT
TROPICANA HOTELS LIMITED 2ND DEFENDANT
KEYSIAN AUCTIONEERS 3RD DEFENDANT**

RULING

1. The motion application dated September 17, 2024, seeks to convert a sum of Kshs. 349,000 into a judgment of this court, pursuant to the ruling on the taxation of the Party and Party Bill of Costs dated July 2022, 2022. This arises from the taxation conducted by the taxing master of this court in her ruling dated July 29, 2024.
2. The motion is supported by the attached affidavit deposed by Mr. Maurizio Nardiello on September 17, 2024, which states that costs were awarded to the applicants against the second respondent herein, Tropicana Hotel Limited.
3. The application is opposed by the second defendant/respondent, who asserts that no Advocate—Client relationship exists, nor has there ever been one between the firm of Ochoki & Ochoki Associates and Tropicana Hotels Limited, or between the plaintiffs (who are not advocates) and Tropicana Hotels Limited. Ochoki & Ochoki Associates previously filed an Advocate—Client Bill of Costs against



Tropicana Hotels Limited in 2021, which they later withdrew. The plaintiffs are not permitted to file an Advocate—Client Bill of Costs against their opponents. The claim for Advocate-Client fees, as granted by the Honorable Deputy Registrar on July 29, 2024, is per incuriam.

4. The respondent contends that the Taxing Master misinterpreted the consent order dated January 25, 2006. The suit was compromised on the basis that each party bears its own costs. Consequently, no fees are recoverable in the suit by either party against the other. The amended Notice of Motion application for judgment in favor of an advocate against an alleged client is deficient as it is based on the taxation of a Party & Party Bill of Costs.
5. Under no circumstances could the costs of an application be assessed at more than Kshs. 300,000/- and the court is urged to dismiss the Notice of Motion application amended on February 12, 2025, with costs.
6. The issue that falls for the determination of this court is whether to convert the taxed bill to a judgment of this court.
7. I have reviewed the record and reckon that on July 29, 2024, the taxing master, who is responsible for assessing and taxing costs, taxed the bill of costs dated July 20, 2022, after hearing the arguments presented by both parties. She observed as follows:

“I have had the benefit of perusing the court file. On 20th September 2019, the court awarded the plaintiffs the costs of the application dated 18th June 2018. This is the application that the plaintiffs contend is the subject of the present bill of costs. As at that time, the 1st defendant and 3rd defendant were not parties to the suit.”
8. The record indicates that when this bill was taxed, the respondents actively opposed it.
9. The issue for me here is to decide whether to have the bill converted into a judgment of the court, rather than the merits or demerits of the taxation by the taxing master. I am not reviewing the findings of the taxing master.
10. As a result, I find that the respondent's assertions have no merit. I therefore allow the motion application dated September 17, 2024, in its entirety.

DATED, SIGNED, AND DELIVERED ELECTRONICALLY IN MALINDI ON THIS 12TH DAY OF JUNE, 2025.

E. K. MAKORI

JUDGE

In the Presence of:

Mr. Sausi for the Applicant

Happy: Court Assistant

In the absence of:

Ms. Muyaa for the 1st Respondent

