



REPUBLIC OF KENYA



Njoroge t/a M/S Agnes W. Njoroge and Co. Advocates v Mwicigi (Environment and Land Miscellaneous Case E250 of 2024) [2025] KEELC 7375 (KLR) (24 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7375 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS CASE E250 OF 2024**

TW MURIGI, J

OCTOBER 24, 2025

BETWEEN

**AGNES WAIRIMU NJOROGE TRADING AS M/S AGNES W. NJOROGE AND
CO. ADVOCATES ADVOCATE**

AND

CAROLINE NJERI MWICIGI CLIENT

RULING

1. Before me for determination is a Chamber Summons dated 22nd May 2025 brought under Sections 1A, 1B, and 3A of the *Civil Procedure Act*, Paragraph/Rule 11 of the Advocates (Remuneration) Amendment Order, in which the Applicant seeks the following orders:
 - a. Spent.
 - b. Spent.
 - c. Spent.
 - d. That this Honourable Court be pleased to vacate, vary and/or set aside the Ruling of the Taxing Officer delivered on 8th May 2025 by Hon. Vincent Kiplagat (DR) on the Advocate-Client Bill of Costs dated 12th November 2024 together with all consequential orders.
 - e. That in the alternative to the prayer above, the Court be pleased to issue an order that the Bill of Costs dated 12th November 2024 be remitted to a different Taxing Officer with directions for fresh taxation.
 - f. That Court be pleased to issue any other order it may deem just and appropriate to grant.
 - g. That the costs of this application be provided for.



2. The application is based on the grounds appearing on its face together with the supporting affidavit Caroline Njeri Mwicigi sworn on even date.

The Applicant's Case

3. The Applicant averred that the Taxing Officer erroneously taxed the bill of costs at Kshs. 2,013,333.33/=. She further averred that the ruling on Taxation is marred with errors as the Taxing Officer failed to deduct Kshs. 680,000/= from the final taxation cost, as the stated amount had already been paid as legal fees. She further averred that the Taxing Officer failed to consider her submissions that challenged items 3 - 42 of the Bill of Costs.

The Respondent's Case

4. The Respondent filed a replying affidavit dated 9th June 2025 in opposition to the Reference. The deponent averred that the instant application is defective because it does not specify which items in the taxed bill of costs are contested. She asserted that the application is an attempt by the Applicant to delay paying the advocate.

The Response

5. The Applicant filed a further affidavit dated 17th June 2025 in response to the replying affidavit. She averred that the total taxed amount after deducting Kshs. 680,000/= should have been Kshs. 1,333,333.33/= and not Kshs. 2,013,333.33. She further averred that the Respondent had not denied receiving the Kshs. 680,000/=. The Applicant also noted that the Taxing Officer did not give reasons for the taxation of items 3-42 despite a request to supply the same.
6. The Reference was canvassed by way of written submissions.

The Applicant's Submissions

7. The Applicant filed her submissions dated 24th June 2025.
8. On behalf of the Applicant, Counsel submitted that the Taxing Officer made an arithmetic error by failing to deduct the Kshs. 680,000/=: which had already been paid from the final taxed cost. The case of Export Processing Zones Authority v Nzei & Company Advocates [2021] KEELC 1263 (KLR) was relied upon. Counsel further submitted that the Taxing Officer misdirected himself by failing to give reasons for allowing items 3-42 of the bill of costs. The Applicant opposed the said items. The case of Kenya Forest Service v Wanyama C S Company Advocate [2021] KEHC 1223 (KLR) was referenced.

The Respondent's Submissions

9. The Respondent filed its submissions dated 3rd July 2025. Counsel submitted that the sum of Kshs. 680,000/= was paid in a different matter between the parties and therefore cannot be applied to the Bill of Costs in the present case.

Analysis And Determination

10. Having considered the application, the respective affidavits, and the rival submissions, the only issue that arises for determination is whether the Impugned Ruling Should Be Set Aside.



11. In the case of Kipkorir Titoo & Kiari Advocates vs Deposit Protection Fund Board (2005) 1 KLR 528, the Court of Appeal held that:-

“On a reference to a judge from the taxation by the Taxing Officer, the Judge will not normally interfere with the exercise of discretion by the taxing officer unless the taxing officer erred in principle in assessing the costs- an example of an error of principle is where the costs allowed are so manifestly excessive as to justify an inference that the taxing officer acted on erroneous principles.”

12. In the case of First American Bank of Kenya v Shah & others [2002]1 EA 64 stated as follows:

I find that on authorities this court cannot interfere with the taxing officer’s decision on taxation unless it is shown that either the decision on taxation was based on an error of principle, or the fee awarded was so manifestly excessive as to justify an interference that it was based on an error of principle.

13. The Applicant faulted the Taxing Officer for failing to deduct the Kshs. 680,000/= paid by the Applicant to the Respondent, and failed to give reasons for the taxation of items 3-42 in the Bill of Costs.

14. The Respondent argued that the Kshs. 680,000 was paid in a different matter. The Applicant produced a letter dated 18th October 2023 in which the Respondent acknowledged receiving Kshs. 680,000/= from the Applicant. The relevant paragraph of the letter states as follows:

“In the course of the High Court and Court of Appeal proceedings, which have spanned over a decade and are still ongoing, your client has only paid a total of Kshs. 680,000 on account. This cannot in any way be termed as substantial, considering all the services rendered to her.”

15. The letter does not specify which High Court case or which Court of Appeal case is being referenced. Therefore, it would be wrong for the Court to assume that the Kshs. 680,000/= was paid in the case related to the disputed taxation ruling.

16. I find that the payment of Kshs—680,000/= in Nairobi Civil App. No. 24 of 2008 (the parent suit) has not been proven on a balance of probabilities. Accordingly, the taxing officer was correct in not deducting this amount from the final taxation cost, as there was no error of principle.

17. Additionally, it is my finding that there was no error of principle regarding items 3-42. The Applicant stated that the taxing officer did not give reasons for how he taxed those items. A perusal of the impugned ruling shows that the taxing officer stated as follows:

“The rest of the items are drawn to scale and I therefore tax them as drawn.”

18. In view of the foregoing, I find that no error of principle has been proven. The application, therefore, lacks merit and is dismissed with costs to the Respondent.

RULING SIGNED, DATED, AND DELIVERED VIA MICROSOFT TEAMS THIS 24th DAY OF OCTOBER, 2025.

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HON. T. MURIGI
JUDGE



In The Presence Of : -

Ms. Mwangi holding brief for Kimani for the client

Ms Njoroge for the Advocate/Respondent

Ahmed-Court assistant

