



Njoroge t/a M/S Agnes W. Njoroge & Co. Advocates v Mwicigi (Environment and Land Miscellaneous Case E252 of 2024) [2025] KEELC 7361 (KLR) (24 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7361 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS CASE E252 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. The 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. In the alternative to prayer (d) 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. The Court be pleased to issue any other order it may deem just and appropriate to grant.
 - g. Costs of this application be provided for.



2. The application is premised on the grounds appearing on its face together with the supporting affidavit of 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. 538,753.33/=. She further averred that the Taxing Officer wrongfully exercised his discretion by failing to find that the Respondent had filed multiple bills for the same services rendered to the Applicant.

The Respondent's Case

4. The Respondent filed a replying affidavit dated 9th June 2025. 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 further averred 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. She averred that the Respondent represented the applicant in the Court of Appeal in a suit involving the same parties, subject matter, facts, and legal issues. The Respondent should not have filed three separate bills of costs for the same matter.
6. The Reference was canvassed by way of written submissions.

The Applicant's Submissions

7. The Applicant filed her submissions dated 24th June 2025. On behalf of the Applicant, Counsel outlined the following issues for the court's determination:-
 - a) Whether the Advocate/Respondent filed a multiplicity of Bills of Costs that are similar.
 - b) Who should bear the costs of the Reference application?
8. On the first issue, Counsel submitted that the Respondent acted on behalf of the Applicant in the Court of Appeal, where the appeal involved the same parties, the same subject matter, and similar facts, and therefore should not have filed multiple and similar bills in ELC L MISC NO. E249 of 2024, ELC L MISC NO. E250 of 2024, and ELC L MISC NO. E252 of 2024.
9. It was further submitted that the Taxing Officer should have issued a single consolidated ruling. To buttress this argument, Counsel relied on the case of *Warutere & Associates Advocates v Robert Kangethe Baar & 3 others* [2018] KEELRC 1826 (KLR) where the court held that:-

“Advocates should avoid filing multiple suits where the cause of action is joint and the relief is generally the same, and only consolidate them for hearing so as to obtain separate instruction fees on taxation. This is a practice that should be deprecated as it enhances the possibility of making access to justice expensive and a preserve of the rich.”
10. It was submitted that the multiplicity of the Bill of costs filed by the Advocate/Respondent amount to unjust enrichment as the said firm of Advocates is intent on receiving payment for the same purported instructions.

Regarding the second issue, Counsel submitted that the Applicant is entitled to costs.



The Respondent's Submissions

11. The Respondent filed its submissions dated 3rd July 2025. She averred that the instant reference is not founded on the provisions of Rule 11. It was further submitted that there is no duplicity as the instant application arises from Nairobi Court of Appeal No. 24 of 2018, which is distinct from other suits the Respondent handled on behalf of the Applicant.

Analysis And Determination

12. Having considered the application, the respective affidavits, and the rival submissions, the only issue for determination is whether the Impugned Ruling Should Be Set Aside.
13. The Court 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.

14. The error of principle that the Applicant is relying on is that the Respondent represented her in a single suit but filed multiple bills of costs. The Respondent argued that the impugned ruling was based on Nairobi Court of Appeal No. 24 of 2018 which was different from other suits where the Respondent was the Applicant's advocate.
15. The Applicant relied on the *Warutere Case* (Supra) where the Court stated as follows:

“The principles in the case were that litigation should not be the preserve of the wealthy, and costs awarded or taxed should therefore not be such as to lead to a situation where parties are unable to approach courts for redress. On the other hand, the court recognised the need to encourage upcoming lawyers by holding that costs should not be so restricted as to discourage upcoming advocates. In balancing these two interests, there is no doubt in my mind that when the Taxing Master upheld the decision in *Grace Wangui Ngenye v Wilfred Kiboro & Another* (supra), it was meant to avoid a situation where an advocate benefits twice at the expense of the client with respect to the party and party bill of costs and the advocate-client bill of costs. Advocates should avoid filing multiple suits where the cause of action is joint and the relief is generally the same, and only consolidate them for hearing so as to obtain separate instruction fees on taxation. This is a practice that should be deprecated as it enhances the possibility of making access to justice expensive and a preserve of the rich.”

16. The Applicant did not present any evidence to show that the cases in which the Respondent represented her had a joint cause of action or that the reliefs sought were generally the same. There is also no evidence that these suits were ever consolidated. Therefore, the Respondent was entitled to file separate bills of costs for each case in which she acted as the Applicant's advocate. The Applicant's claim of multiplicity, therefore, fails.
17. In view of the fact that unwarranted multiplicity has not been proven, no error of principle has been found. The instant 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

