

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MURANG'A
MISCELLANEOUS REFERENCE APPLICATION NO E056 OF
2023
IN THE MATTER OF THE ADVOCATES REMUNERATION
ORDER, 2014

AND

IN THE MATTER OF TAXATION OF ADVOCATE/CLIENT BILL
OF COSTS

AND

IN THE MATTER OF MURANG'A HIGH COURT MISC CRIMINAL
APPLICATION NO. 027 OF 2020

MWAURA KELVIN KARUGA & ASSOCIATES
ADVOCATES.....ADVOCATE/OBJECTOR

VS

GEOFFREY KIARIE KURIA 1ST
CLIENT/RESPONDENT

BERNARD NJOROGE WAITITU.....2ND
CLIENT/RESPONDENT

MARGARET WANJIRU NJOROGE.....3RD
CLIENT/RESPONDENT

RULING

1. The Application before Court arises out of a taxation of a bill of costs dated 20th June 2023, Ruling delivered on 7th November 2024 and taxed at 26,800.
2. The Applicant moved this court by way of Chamber summons application dated 2nd December 2024 raising an

objection and seeking for review of the taxation by the DR Analo dated 20th June 2023.

3. The Applicant sought for orders that:
 - i. *This Honorable Court be pleased to certify this Application as Urgent.*
 - ii. *This Honorable Court be pleased to set aside the Taxing Officer's Ruling dated 7th November 2024 taxing the Advocate/Applicant's Bill of Costs dated 20th June 2023 at Kshs 26,800.*
 - iii. *The Honorable Court be pleased to re-tax/tax afresh, the Bill of Costs dated 20th June 2024.*
 - iv. *The Costs of this Application be provided.*
4. The Application was supported by grounds and an affidavit of even date by Mwaura Kelvin Karuga pointing out areas of concern to be reviewed.
5. The Parties appeared before court on 10th June 2025 and made oral submissions.
6. Counsel Mwaura for the Applicant submitted that they have raised an objection against the taxation because the taxing officer erred by basing his decision on the Advocates remuneration order 2014 (schedule 7) which deals with costs of proceedings in subordinate courts while the matter at hand was filed in the High Court.
7. Counsel submitted further that the DR erroneously indicated the instructions fee to be Kshs. 10,000 while the applicant did not indicate that amount. Counsel pointed out that the amount of Kshs. 10,000 was pleaded by the Respondent counsel and not by the Applicant.

8. They argued that the DR did not take into account their replying Affidavit dated 11th June 2024. This was because on the e filing portal it was indicated as not actioned. That the DR did not appreciate the nature of forensic responsibility that was placed upon them nor the novelty that was involved in the main proceedings.
9. It is thus submitted that the DR's error amounted to an error of principle that violated the forensic principle that a successful litigant ought to be compensated fully and it therefore amounted to an injustice on the part of the Applicant. The Applicant therefore prays that this court retaxes the bill afresh especially on the issue of the instruction fee.
10. Counsel for the respondent vide his Replying Affidavit sworn on 26th August 2025 averring that the bill was taxed fairly making reference to several court judgements that a bill of costs should not aim at enriching the advocate but to ensure that he/she is appropriately compensated.
11. Counsel however admits that the DR erred by basing the taxation on schedule 7 which applies to the lower court as opposed to the schedule relevant to the High Court where the matter was filed and concluded.
12. However, Counsel pointed out that the matter was simple and straight forward to wit, an application for anticipatory bail which in counsel's view did not require much industry.
13. I have carefully considered the application and objection before the court together with submissions by both Counsel. The objection raises a substantive issue that the taxing

officer erred by basing the taxation on the 7th schedule which is relevant for matters in the Subordinate court instead of the schedule which applies to matters in the High court. for the above reason I find that there was a fundamental error that can only be addressed through re-taxation.

14. I also find that there is no dispute of principle that requires a review of the High Court. Based on the above I direct that this matter be referred to another taxing officer for afresh taxation based on the applicable law and policy.

15. This matter will therefore be mentioned before Hon. Amelia Okullo Deputy Registrar for directions and taxation on 30th October 2025.

DATED, SIGNED AND DELIVERED ELECTRONICALLY THIS 30TH OCTOBER, 2025.

**HON. T. W. Ouya
JUDGE**