



JA Guserwa & Company Advocates v Uzuri Foods Limited (Miscellaneous Application E078 of 2025) [2025] KEELRC 3105 (KLR) (6 November 2025) (Ruling)

Neutral citation: [2025] KEELRC 3105 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS APPLICATION E078 OF 2025
ON MAKAU, J
NOVEMBER 6, 2025**

BETWEEN

JA GUSERWA & COMPANY ADVOCATES APPLICANT

AND

UZURI FOODS LIMITED RESPONDENT

RULING

1. On 17th March 2025 the Applicant (Advocate) filed an Advocate-Client Bill of costs dated 24th February 2025 for taxation by the Taxing officer of the court. The Bill has since been fixed before the Taxing officer severally the last time being 13th October 2025 when the parties were given time to file written submissions and a ruling scheduled on 13th November 2025.
2. While the Bill was still pending taxation, the Respondent (Client) filed Notice of Motion dated 29th September 2025 seeking the following orders:-
 - a. That this Application be certified urgent and heard on priority basis.
 - b. That in the first instance, and thereafter pending hearing and determination of this Application, Taxation of the Advocate's Advocate-Client Bill of Costs dated 24th February 2025 in this matter be stayed.
 - c. That the taxing officer lacks jurisdiction to tax the Advocate's Advocate-Client Bill of Costs dated 24th February 2025.
 - d. That the Advocate-Client Bill of Costs dated 24th February 2025 be struck out with costs to the Client.
 - e. That the costs of this Application be borne by the Advocate.



3. The motion was supported by an Affidavit sworn on the even date by the Client's Director one Aneez Lalji and it was opposed by the Respondent vide a Replying Affidavit sworn by Judith A. Guserwa Advocate on 7th October 2025.
4. In brief the Client's case was that the Advocate represented it in defending ELRC Cause No. 1830 of 2016 Benard Musyoki Ngwenze & 19 others v. Uzuri Foods Limited; that by a letter dated 2nd September 2016, the Advocate claimed a professional fees of Kshs. 2,550,000/- based on the claim of Kshs. 49,606,050/- in the said suit; that after discussion, the Advocate discounted the fees to Kshs. 2,350,000/- and acknowledged advance payment of Kshs. 350,000; that the discussion was reduced into writing by the Advocate vide the letter dated 10th October 2016, enclosing of the Fee Note dated even date; it wrote that subsequently to the Advocate letter dated 17th October 2016 enclosing three cheques for total sum of Kshs. 1,819,750/- which were all paid in favour of the Advocate on 19th October 2016; that the Advocates fee note was fully settled and therefore the Taxing officer of the court has no jurisdiction to tax the Advocate-Client bill of Costs dated 24th February 2025.
5. The Advocate's case, on the other hand, was that the Fee Note for Kshs. 2,069,750 dated 10th October 2016 did not indicate that it constituted the full and final fees towards the legal services rendered; that the said Fee Note did not also constitute a fees agreement since it was just a demand for payment of fees at certain intervals during the pendency of the suit; that the fee Note was never signed by the Advocate and the Client to make it an agreement for full and final fees, and as such the Taxing officer has jurisdiction to tax the Advocate-Client Bill of Costs dated 24th February 2025; and that the Motion is made in bad faith, it is frivolous and lack merits, and therefore ought to be dismissed with costs.
6. The Motion was disposed of by written submissions which basically revolved around the interpretation of section 45 of the *Advocates Act*. Having considered the rival submissions, the following issues fell for determination.
 - a. Whether the jurisdiction of the court was properly invoked by the Motion herein.
 - b. Whether the Taxing officer of the court lacks jurisdiction to tax the Advocate-Client Bill of Costs dated 24th February 2025.

Jurisdiction of the court over the Motion

7. The jurisdiction of the court in taxation of Advocate-Client Bill of Costs is sui generis and it is only donated under Rule 11(1) of the Advocate's Remuneration Order. The said rule provides that:-

“Should any party object to the decision of the taxing officer, he may within four-teen days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.”
8. The above power is only exercisable upon decisions of a Taxing officer and it cannot precede any decision by the taxing officer. It follows that, if the Client had any Objection to the Advocates bill of Costs dated 24th February 2025, under section 45 of the *Advocates Act*, nothing barred it from raising the same for determination first by the Taxing officer. Only thereafter could the client properly invoke the jurisdiction of the court to review the decision of the Taxing officer by a Reference originated by a Chamber Summons under Rule 11 of the Advocates Remuneration Order.
9. In view of the foregoing, I find and hold that the Motion before the court is not only novel, but also premature and bad in law. It is alien to the special jurisdiction of the court as contemplated in the



Advocates Act and the Advocates Remuneration Order which do not donate original jurisdiction to the court, but the Taxing officer.

Jurisdiction of the Taxing officer over the Bill of costs

10. The jurisdiction of the Taxing officer to tax Advocate's Bill is provided by section 51 of the Advocates Act and Rule 70(7) of the Employment and Labour Relations Court Procedure Rules, 2024. Section 11(2) of the Employment and Labour Relations Court Act then provides that the Registrar, Deputy Registrar and Assistant Registrars shall perform the duties conferred upon them by the Act, the rules of the court or any other written law. Accordingly, I have no doubt that the Registrars of this court have jurisdiction to tax Advocates bills of costs except where the power is taken away by section 45(6) of the advocates Act which provides that:-

“(6) subject to this section, the costs of an advocate in any case where an agreement has been made by virtue of this section shall not be subject to taxation nor to section 48.”

11. The question whether or not parties entered into legal fees agreement under section 45 of the Advocates Act is a matter that can be determined by the Taxing officer of the court while taxing the Advocates bill of costs or as a Preliminary point. It is only after the decision by the Taxing officer, that this court's jurisdiction can be invoked.

Disposition

12. This court lacks original jurisdiction to determine the Client's Motion dated 29th September 2025 and therefore it is struck out with costs.

DATED, SIGNED AND DELIVERED VIRTUALLY IN OPEN COURT AT NAIROBI THIS 6TH DAY OF NOVEMBER, 2025.

ONESMUS MAKAU

JUDGE

Appearance:

No appearance for the Applicant

Guserwa for the Respondent

