

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT AT NAIROBI

ELRC CAUSE NO. E122 OF 2023

KENYA MEDICAL PRACTITIONERS'

PHARMACISTS & DENTISTS UNION.....CLAIMANT

VERSUS

KIAMBU COUNTY GOVERNMENT.....1ST RESPONDENT

COUNTY SECRETARY AND HEAD OF PUBLIC SERVICE,

KIAMBU2ND RESPONDENT

KIAMBU COUNTY PUBLIC SERVICE BOARD.....3RD RESPONDENT

AND

MUA INSURANCE (K) LTD.....INTERESTED PARTY

RULING

1. The applicant, dissatisfied with the ruling of the Taxing Master Hon Aziza Ajwang of 16th January 2025 filed reference vide chamber summons dated 30th January 2025 under sections 1A, 18 and 3A of the Civil Procedure Act, Cap 21 and Paragraph 11 of the Advocates Remuneration Order, 2014 and sought for ORDERS THAT:
 - a) There be a stay of execution of the certificate of taxation arising out of the Bill of Costs dated 2nd October 2024,
 - b) That the decision of the Taxing Officer as contained in the ruling delivered on 16th January 2025 with respect to item (1), being the Respondent's instruction fees in the bill of costs dated 2nd October 2024 be set aside and/or varied.

- c) That in the alternative, the Honourable court be pleased to have the bill of costs dated 2nd October 2024 taxed afresh by this honourable court or placed before a different taxing officer.
- d) The costs of this application be provided for.

Grounds of the application

2. Vide a memorandum of claim dated 14th February 2023, the Respondent sought a cancellation of a medical insurance contract worth Ksh. 318,000,000 awarded by the Applicants to MUA Insurance, the interested party.
3. The said suit was accompanied by an application for conservatory orders which the Applicant duly responded to and successfully got dismissed.
4. The Applicants then filed a substantive response to the main suit to wit; a memorandum of response.
5. Further, prior to the hearing date, the Applicants, drew and filed the notice of preliminary objection which had the resultant effect of striking out the suit.
6. At all material times to the suit, it was the Applicants who drafted and filed the said preliminary objection.
7. On 16th January 2025, the suit against the Applicants was dismissed with costs owing to the preliminary objection filed by the Applicants, following which the Applicants filed a bill of costs dated 2nd October 2024.

8. Vide a ruling dated the 16th of January 2025, the taxing officer taxed the Applicant's bill at the sum of KES. 287,465, in the process declining to grant the Applicants sought instruction fees on the erroneous assumption that the subject value of the matter was unidentifiable from the pleadings.
9. The Applicants oppose the ruling of 16th January 2025 for reasons highlighted hereunder.
10. At all material times, the Applicants' advocate received voluminous bundles of documents from the Respondent, perused the same, filed a response to the application for conservatory orders, filed a substantive response to the suit first then later on filed a preliminary objection just before the hearing, filed multiple sets of submissions, attended court numerously; but most importantly, worked to ensure that the Ksh 318,000,000 contract awarded to the interested party by the Applicants would not be cancelled, subjecting the tax payers to great loss in penalty payments for breach of the contract.
11. The ruling is erroneous for being based on the assumption that the subject matter was not identifiable.
12. At all material times there was an identifiable and quantifiable subject matter. being an insurance contract valued at Ksh. 318,000,000.
13. The taxing master thus erred in failing to consider that the Respondent at all material times sought for the cancellation of the said contract valued at Ksh. 318,000,000.
14. The taxing master erred in failing to consider that the Applicants were at all material times fighting to ensure that the Respondent did not successfully cause the cancellation of the 318,000,000 contract.

15. The taxing master also erred in failing to consider the consequences of cancellation of the insurance contract awarded to the interested party which gave the suit a unique status and as such by awarding the applicants instruction fees of Ksh. 287,465 yet they were fighting to avoid paying contract breach damages worth millions to the interested party, the court diminished the effort put in by the Applicants and its advocates.
16. The court erred by allowing itself to be swayed by the Respondent's submissions which conveniently hid the fact that the Respondent went to court explicitly asking for cancellation of a Kshs. 318,000,000 contract.
17. This honourable court has the requisite jurisdiction to hear this instant application.
18. It is in the interest of justice that the orders sought herein be granted.
19. The application was further supported by the annexed affidavit of Ometo Omukonyi Advocate who produced the list of documents in support of the applications being the memorandum of claim, the response to the claim by way of preliminary objection, contract of insurance awarded to MUA insurance and the impugned taxation ruling.

Response

20. The application was opposed by the claimant vide replying affidavit of Julius Juma Advocate sworn on the 17th June 2025 who stated as follows-
21. THAT the jurisdiction of this court invoked by way of reference is not an appeal and is exercised in very limited circumstances specifically provided under. The respondent's application herein is more of an appeal than an application for reference.
22. THAT the respondent's complaint against taxation of item 1 on their bill of costs is founded on a misguided belief that is not founded on any law.

23. THAT the law is clear that instruction fees is based on, among others, the value of the subject matter if the said value is discernible either from the pleadings or judgment.
24. THAT where the subject matter value is not discernible, the taxing master has a wide discretion to award an appropriate sum for instruction fees.
25. THAT looking at the Statement of Claim filed by the claimant herein, there is no mention of any value of the purported contract. Indeed, the suit was not for recovery of any money nor was it founded on the purported value of the subject contract.
26. THAT further, upon being served with the pleadings, the respondent herein, filed two Notices of Preliminary Objection seeking that the suit be struck out for the claimant's failure to exhaust Alternative Disputes Resolution Mechanisms set out in the Collective Bargaining Agreement executed between the parties herein.
27. THAT the said Preliminary Objection was upheld and the suit struck out.
28. THAT this suit was not dismissed on merit, instead it was struck out because the claimant did not exhaust alternative methods of dispute resolution.
29. THAT the claimant and the respondent herein executed a Collective Bargaining Agreement which set out inter alia, the terms of employment of the claimants' members, including medical cover.
30. THAT the said Collective Bargaining Agreement provided that any alternation in the terms of employment of the claimant's members would not be implemented unless negotiated and agreed between the claimant and the respondent.

31. THAT in 2023, the respondent terminated the then existing medical cover for the claimant's members and contracted the interested party herein to provide an alternative cover which was inferior to the previous one.
32. THAT the claimant herein filed these proceedings in which they sought injunctive remedies suspending implementation of the new medical cover for which the interested party had been hired until certain grey areas were discussed and negotiated.
33. THAT this suit therefore had nothing to do with the value of the purported contract awarded by the respondent to the interested party. Instead, it only sought injunctive remedies stopping implementation of the said insurance policy until the issues in dispute were ironed out.
34. THAT the respondent's contention that the instruction fee should have been based on the value of the said contract, when that was not the subject matter of the suit is misguided.
35. THAT in any case, how did the respondent expect the taxing master to know the purported value of the subject matter when that was not contained in any pleadings filed by the parties or judgment?
36. THAT it is noteworthy that the interested party herein also filed their bill of costs and accepted the taxing master's award without complaining yet they stood to suffer the greater loss in the event the said medical insurance contract awarded to them had been terminated.
37. THAT the respondent's application herein is not founded on the law, is unmerited and we therefore pray that the same be dismissed with costs to the claimant.

38. THAT in any case, this court can only interfere with the taxing master's finding on taxation if it is satisfied that the taxing master committed an error of principle that makes her impugned finding unreasonable.
39. THAT in the instant case, there is no error of principle committed by the taxing master to warrant interfering with her finding.
40. THAT the respondent's claim for Kshs 5,999,999 as instruction fee in a matter in which the claimant only sought temporary injunctive relief pending negotiations and discussions on contested terms is unfair and unjust.
41. THAT awarding the said sum of Kshs 5,999,999 AS INSTRUCTION FEES IN A matter that was summarily terminated by way of a preliminary objection will not only be unconscionable but also divest members of the claimant union funds that would better be channeled to the core business of the union.

Decision

Issue for determination- Whether the reference was merited

Applicant's submissions

42. Whether the subject value of the matter was unascertainable from the pleadings- The Taxing Master declined to award instruction fees in the taxed Bill of Costs on the ground that the subject value of the matter was not discernible from the pleadings. However, the Applicants respectfully submit that this was a misdirection on the part of the Taxing Master. At all material times, the subject matter of the dispute was clearly identifiable and quantifiable, being a medical insurance contract valued at Kshs. 319,383,750. The conduct of the

Applicants' Advocate throughout the proceedings clearly demonstrates a consistent effort to safeguard the contract valued at Kshs. 319,383,750, awarded to the Interested Party by the Applicants. The Advocate reviewed and analysed voluminous bundles of documents served by the Respondent, filed responses to various applications, submitted a substantive response to the suit, lodged a Preliminary Objection prior to the hearing of the main suit, filed multiple sets of submissions, and made numerous appearances before the Court. These actions collectively underscore the Advocate's intention to preserve the said contract and its attendant value. When reviewing a bill of costs, a Taxing Master should consider all pleadings as a whole, including any accompanying documents that provide evidence. This includes scrutinizing the memorandum of claim, the response to it, and any additional documents or evidence that may have been submitted. The Taxing Master's role is to determine the appropriate costs for legal services rendered, and this requires a comprehensive review of the case's documentation. The Claim principally sought two substantive reliefs: the cancellation of the contract awarded to the Interested Party and the consequent award of the same to the National Hospital Insurance Fund (NHIF). The cancellation of the said contract at all material times, directly pertained to a sum of Kshs. 319,383,750, which, for all intents and purposes, constituted the subject matter value in these proceedings. It is therefore both legally and logically unfounded that the Taxing Master would conclude that there existed no ascertainable subject matter value. The Applicants respectfully contend that the Taxing Officer ought to have commenced by thoroughly examining the pleadings and supporting documents before resorting to the exercise of discretion, a step the Applicants believe was not undertaken. This omission is inconsistent with the guiding principles set out by the Court of Appeal in *Peter Muthoka & Another v Ochieng & 3 Others*, Civil Appeal No. 328 of 2017; [2019] eKLR, wherein the Court held as follows: Had "He does have discretion as to what he considers just but that discretion kicks in only after he has engaged with the proper basis as expressly and

mandatorily provided: either the pleadings, the judgment or the settlement. He has no leeway to disregard the statutorily commanded starting point. And we think, with respect, that the starting point can only be one of the three." the Taxing Master duly considered the pleadings alongside the supporting documents, he would have appreciated that the subject matter value was clearly set out at paragraph 17 of the Applicants' Witness Statement dated 14th August 2024, as well as at clause 3 of the Contract awarded to the Interested Party, which appears between pages 15 to 27 of the Applicants' List and Bundle of Documents. The Taxing Master's finding that the subject value of the matter was undiscernible from the pleadings is, with respect, both unfounded and misplaced. A holistic review of all the documentation placed before the Taxing Master would have readily revealed the presence and clarity of the subject matter value.

43. Whether the Taxing Master appreciated the nature, gain, value or benefit of the claim in taxing the Bill of Costs to reach the erroneous conclusion that the subject value of the matter was unascertainable from the pleadings. The Applicants respectfully submit that, even assuming *arguendo*, without conceding, that the subject matter was not discernible from the pleadings, thereby necessitating the exercise of discretion by the Taxing Master in taxing the Bill of Costs, the Taxing Master nonetheless failed to properly appreciate the nature and value of the claim. At all material times, the applicants were actively engaged in safeguarding a contract valued at Kshs. 319,383,750, awarded to the Interested Party. The Taxing Master ought to have taken into account the serious implications of the potential cancellation of the said insurance contract, including the costs arising from non-performance and the broader impact such cancellation would have had on the healthcare coverage of the Applicants' numerous employees. In connection to the above, the Court argued in *Mwiti & Another v Viljoen & Another* (Civil Case E002 of 2022) [2023] KEHC 24906 (KLR) that: "What is gleaned from the above is that the Taxing Master must meticulously consider

pleadings before him and, even where the pleading is silent on the value of the subject matter, form an opinion whether there is any value, gain or benefit that can be ascertained through the invoking of the powers under Paragraph 13A. Ultimately, it is about the nature of the claim." The Applicants maintain that in this case, both the value and nature of the claim were clearly established in the pleadings and supporting documents. The Taxing Master therefore erred in failing to recognize the substantial value at the heart of the dispute and in declining to award the appropriate instruction fees accordingly. However, even in the circumstances that the Taxing master, as was erroneously concluded, could not identify the value of the subject matter, they should have considered the value, gain or benefit sought for in the proceedings. The Applicants humbly submit that the taxing master failed to conclusively consider these issues, and thus came to the erroneous conclusion that there was no ascertainable value of the subject matter in the pleadings. More significantly, it is highly questionable and raises serious concern how the instruction fees awarded to the Interested Party, amounting to Kshs. 313,752, could exceed those awarded to the Applicant, who actively prosecuted the matter. The Applicant not only filed and argued the Preliminary Objection but also undertook substantial steps in the proceedings, including preparing and filing extensive pleadings and submissions. It defies logic and established principles of taxation that a party who played a peripheral role would be awarded higher instruction fees than the party who bore the primary responsibility in the litigation. This discrepancy further underscores the fundamental error in the Taxing Master's assessment and warrants the intervention of this Honourable Court.

44. Whether the Respondent's fee was in strict compliance with schedule 6 of the Advocates Remuneration Order. Pursuant to Schedule 6, Item 1 (b) of the Advocates (Remuneration) Order, the instruction fees, when computed in accordance with the prescribed formula, amounts to a figure way higher than the Kshs. 287,465 awarded by the Taxing Master.

Thus, the figure by the Taxing Master is manifestly erroneous and constitutes a grave miscarriage of justice against the Applicants. It is evident that the subject matter in question is valued at Kshs. 319,383,750, which forms the proper basis for computing the instruction fees. The amount awarded by the Taxing Master is not only disproportionately low but also falls significantly short of the requirements stipulated under Schedule 6 of the Advocates (Remuneration) Order.

Respondent/claimant's submissions

45. Whether this application is competent. The instant application is incompetent and should be dismissed with costs for not following the laid down procedure for challenging decisions of a taxing master. Despite quoting Rule 11 of the Advocates Remuneration Order as the legal basis for this application, the respondent did not follow the dictates of the said rule. Rule 11 (1) & (2) of the Advocates Remuneration Orders provide that any aggrieved party by a taxing Officer's decision shall file a Notice of Objection to the taxing master within 14 days stating the disputed items and seeking reasons for the taxing master's decision. The provision states: - 11(1) Should any Party object to the decision of a Taxing Officer, he may do so within 14 days after the decision in writing to the Taxing Officer of items of taxation to which he objects". (2) The Taxing Officer shall forthwith record and forward to the Objector reasons for the decision on those items and the Objector may within 14 days from the receipt of the reasons apply to a Judge by Chamber Summons, which shall be served on all the Parties' concerned setting out grounds of his. In the instant case, the respondent did not file a Notice of Objection to the taxing officer indicating the items they object to and seeking reasons for the taxing officer's decision. We therefore submit that by failing to issue the Notice of Objection aforesaid, this application is incompetent. We rely on the case of *Shapley Barret & Co. Advocates v Bamburi Special Products Limited* (Commercial Miscellaneous Application E181 of 2022) [2024] KEHC 11590 (KLR) (Commercial and

Tax) (20 September 2024) (Ruling) where the court held thus:- A party aggrieved by the decision of a Taxing Officer can appeal against it to the High Court by way of a Reference to a Judge in the manner provided for under Rule 11 of the Advocates (Remuneration) Order. This position was restated by the Court in the case of Machira v Magugu [2002] 2 EA 428, as follows – “...the Advocates Remuneration Order is a complete code and there is no provision for the invocation of the Civil Procedure Rules... any complaint about any decision of the taxing officer whether it relates to a point of law taken with regard to taxation or to a grievance about the taxation of any item in the bill of costs is ventilated by way of a reference to the Judge in accordance with paragraph 11 of the Advocates Remuneration Order...” The procedure for challenging a Taxing Officer’s decision in the High Court is provided for under Rule 11(1) & (2) of the Advocates (Remuneration) Order 1962, which states that – 1. Should any party object to the decision of the taxing officer, he may within 14 days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects. 2. The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by chamber summons, which shall be served on all the parties concerned, setting out the grounds of his objection...” Therefore, before filing a Reference as contemplated under Rule 11 of the Advocates (Remuneration) Order, an aggrieved party has to first give the Taxing Officer a Notice in writing, commonly referred to as a Notice of Objection within fourteen (14) days of his decision, of the items of taxation to which he objects to. Thereafter, the Taxing Officer shall forward to the objector the reason(s) of his/her decision, then the objector may within fourteen (14) days from the receipt of the said reasons make an application commonly referred to as a Reference to a Judge by way of Chamber Summons, setting out the grounds of objection.

46. We place further reliance on the case of *Matiri Mburu & Chepkemboi Advocates vs Occidental Insurance Company Limited* [2017] eKLR, where the Court when striking out a Reference held as follows – the provisions of Paragraph 11 of the Remuneration Order serve several purposes. Firstly, the requirement that a party seeking reasons gives a notice of items objected to, serves to narrow down the issues, and secondly, give notice to the adverse party and the taxing master of his objection. Thus, the taxing master, adverse party and ultimately the reference court in their respective roles can focus on the specific matter objected to rather than entire bills of costs, which often run into several pages. The objective is obvious: the expeditious disposal of taxation disputes. Thus, compliances with the requirements of paragraph 11 of the Remuneration Order is not a mere technicality that can be pushed aside peremptorily as the Applicant appears to suggest. The provisions of Article 159 (2) (d) of the Constitution were not intended to overthrow procedural or technical requirements, but to guard against “undue regard “to procedural technicalities in the administration of justice. It is therefore our humble submission that having failed to issue the Notice of Objection contemplated under Rule 11 of the Advocates Remuneration Order, the respondent did not invoke this court’s jurisdiction properly hence this application is incompetent and should be struck out with costs. Nature of Jurisdiction of the High Court under Rule 11 of the Advocates Remuneration Orde 11. The principles governing the setting aside of decisions of a Taxing Master were well established in the cases of *Premchand Raichand Limited & Another vs Quarry Services of East Africa Limited and Another* [1972] E.A 162, *First American Bank of Kenya vs Shah and Others* (2002) EA 64 and *Joreth Ltd vs Kigano and Associates* (2002) 1 EA 92. The principles are set out here below as follows: a. That there was an error of principle b. The fee awarded was manifestly excessive or is so high as to confine access to the court to the wealthy. c. That the successful litigant ought to be fairly reimbursed for the costs he has incurred d. That so far as practicable there should be consistency in the award. It is our humble submission that the revisionary jurisdiction of the

Court is not an appeal. The said jurisdiction can only be invoked where the applicant cites and proves at least one of the above principles. In the instant case, it is alleged that the taxing officer committed an error of principle in failing to consider the value of the subject matter in arriving at the award on instruction fees. While making such wild allegations, the respondent averred that the subject matter value of the dispute was in excess of Kshs 300,000,000. The respondent therefore averred that the taxing master should have relied on the said value so as to award Kshs 5,797,977 as instruction fees.

47. The question that follows is whether the respondent has proved that the taxing master entered in to error by declining the invitation to award the respondents instruction fee in the astronomical sum of Kshs 5,797,977 based on an alleged but unproven value of the subject matter. Principles governing assessment of instruction fees. It is not in dispute that the value of the subject matter of a suit is one of the considerations to be made while assessing instruction fees. However, the said value of the subject matter can only be relied on if discerned either from pleadings or from the court's final judgment. We rely on the Court of Appeal decision in *Joreth Limited v Kigano & Associates* [2002] eKLR where the learned judges stated thus: - We would at this stage point out that the value of the subject matter of a suit for the purposes of taxation of a bill of costs ought to be determined from the pleadings judgment or settlement. In the instant suit, nowhere in the claimant's Statement of Claim was the alleged value of the subject matter mentioned. Also, the respondent did not file a Statement of Defense/Memorandum of Reply in which they could have mentioned the alleged value of the subject matter. Instead, they only filed a Notice of Preliminary Objection citing failure of the claimant to exhaust alternative disputes resolution mechanisms before filing the suit. That objection was upheld and the matter struck out. As such, the only pleading on record at the time of striking out the suit was the statement of claim which did not mention any alleged value of the subject matter of the suit. Furthermore, the suit was struck out at the preliminary stages based on a preliminary

objection without hearing on merit. So no value of the subject matter was determined by the court as the suit was not determined on merit. In any case, the value of the subject matter, whatever it is, was not in dispute. What was in dispute, which the claimant sought to correct, is failure by the respondent to comply with the terms of a Collective Bargaining Agreement the claimant signed with the respondent. While filing this application, the respondent relied on a contract between itself and the interested party and alleges that the consideration payable under that contract should have been factored in assessing instruction fees. It is our most humble submission that the respondent is misguided in their submission that their duty was to defend the alleged contract and that the consideration under that contract is what should have informed instruction fees. As already stated at the beginning of these submissions, this suit challenged the respondent's decision to change the medical scheme for its employees, who are members of the claimant, without discussions and negotiations as provided in a Collective Bargaining Agreement between them. This suit did not challenge the contract awarded by the respondent to the interested party as alleged. All that was intended was that parties negotiate on certain controversial clauses before the said contract could be implemented. The suit therefore sought injunctive relief pending such discussions, negotiations and public participation. In fact, nowhere in the Statement of Claim did the claimant seek that the said contract be cancelled. Instead, the claimant prayed that consultations, negotiations and public participation be conducted so that its members may understand the benefits of that scheme before implementation. We therefore urge your ladyship to concur with the taxing master by declining to peg instruction fees on the alleged value of a subject matter that is not discernible as set out in Joreth case (ibid). Even if it were to be argued, that this suit was intended for cancellation of the alleged contract, it is the interested party as the service provider under the said contract that stood to suffer greater loss. The interested party stood to suffer the loss of earnings that were payable to them under the said scheme. The respondent on the other hand, stood only to suffer penalties that

would have been chargeable following such cancellation. Again, such penalties have not been pleaded. Yet, the interested party who was equally awarded costs by the court, and who stood to suffer greater loss, accepted the taxing master's award of Kshs 200,000 as instruction fees and has moved on. In fact in their bill of costs, the interested party had quoted the sum of Kshs 500,000 as instruction fees. If your ladyship were to accept the respondent's invitation to review the award of instruction fees in the manner proposed by them, there would be total confusion as the court would have awarded two sets of instruction fees to two parties in the same matter. It is also our humble submission that the respondent's claim of kshs 5,797,977 in a manner where interim injunctive relief was sought is not only preposterous but also amounts to an attempt at unjust enrichment.

48. It is also noteworthy that the claimant is a trade union whose core business is to protect and champion the interests of its members. The funds and assets of the claimant are raised by members through membership subscriptions to facilitate its objectives. If the court were to award such costs against a trade union, then the members would be divested of funds that would have been invested in the core business of the union. Also, such an award would not only set a wrong precedent but also scare trade unions and other litigants from filing cases in court even when it is absolutely necessary.

Decision

49. This matter arises from a Memorandum of Claim dated 14th February 2023, in which the Respondent sought the cancellation of a medical insurance contract awarded by the Applicants to MUA, the Interested Party, the union alleging inferior terms of medical benefits to its members. The applicant alleged the contract was valued at Kshs. 319,383,750 but on perusal of the claim the court did not find such sum pleaded. There was no judgment as the case was dismissed summarily vide a ruling. The bill of costs dated 26th September

2024 was not annexed to the application but is part of the court record though by a different law firm. The bill did not disclose the value of the subject matter but sought instruction fee at 75% of Kshs 500,000 thus Kshs. 375,000. The taxing master considered the sum of Kshs. 200,000 fair assessment and stated the value was not discernible from the pleadings(Ruling annexed dated 16th January 2025). The matter was determined summarily by upholding a preliminary objection by the applicant. The Taxing Master held- *“The value of the subject matter cannot be deciphered from the pleadings.*

The Court of Appeal in the case of Joreth Ltd v Kigano & Associates NRB CA Civil Appeal No 66 of 1999 [2002] eKLR in determining the issue of instruction fees stated as follows:

“We would at this stage point out that the value of the subject matter of a suit for the purpose of taxation of a bill of costs ought to be determined from the pleadings, judgment or settlement (if such be the case) but if the same is not ascertainable, the taxing officer is entitled to use his discretion to assess such instruction fee as he considers just, taking into account, among other matters, the nature and importance of the cause or matter, the interest of the parties, the general conduct of the proceedings, any direction by the trial judge and all other relevant circumstances.” The court having perused the pleadings before the trial court agreed with the findings of the taxing master and upheld the decision of the Court of Appeal relied on.

50. The court noted that the applicant had not complied with Rule 11(1) & (2) of the Advocates (Remuneration) Order 1962, which states that – ‘1. Should any party object to the decision of the taxing officer, he may within 14 days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects. 2. The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by

chamber summons, which shall be served on all the parties concerned, setting out the grounds of his objection...” The matter was thus prematurely before the court. The reference was nevertheless determined on merit and the court upheld the decision of the Taxing Master. (**Mbogo v Shah** applied).

51. The court found no merit in the reference against the ruling of the Taxing Master of 16th June 2025. The Ruling of the Taxing Master Hon Aziza Ajwang is upheld. The applicant to pay costs of the reference to the respondent/claimant.

52. It is so Ordered.

DATED, SIGNED, AND DELIVERED IN OPEN COURT AT NAIROBI THIS 13TH DAY OF NOVEMBER, 2025.

**J.W. KELI,
JUDGE.**

IN THE PRESENCE OF:

Court Assistant: Otieno

Appellant – Absent

Respondent- Absent