

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ELC NO. 1 OF 2017

**COUNTY GOVERNMENT OF
TRANS NZOIA -----4TH
DEFENDANT/APPLICANT**

VERSUS

**ANTONY MUNENE-----6TH
DEFENDANT/RESPONDENT**

**IN THE MATTER OF REFERENCE ON PARTY AND
PARTY BILL OF COSTS ARISING FROM LAND &
ENVIRONMENT COURT AT KITALE ELC NO. 1 OF
2017**

**VINCENT MOSE OMARIBA
ABEL GICHANA OMARIBA
(Suing as the Legal Representatives of the Estate of
FLORENCE K.**

OPINI)-----

PLAINTIFFS

VERSUS

**NATIONAL LAND COMMISSION-----1ST
DEFENDANT**

**THE CHIEF LAND REGISTRAR-----2ND
DEFENDANT**

**THE LAND REGISTRAR-----
3RD DEFENDANT**

**COUNTY GOVERNMENT OF TRANS NZOIA-----4TH
DEFENDANT**

DAVID NDEGWA MWAI-----5TH
DEFENDANT
ANTHONY MUNENE-----6TH
DEFENDANT

RULING

- 1.** Before the court is an application dated **10/9/2025**. It seeks to set aside a taxation decision on a party-to-party bill of costs rendered by the taxing master on **28/8/2025**, and upon setting it aside, the court be pleased to tax the said advocate's client bill of costs dated **24/6/2025**.
- 2.** The grounds are set out on the face of the application and in a supporting affidavit sworn by Karani Grey, advocate, on **10/9/2025**. The applicant deposes that he was representing the 6th defendant in this suit by filing a defence and counterclaim dated **16/6/2018**, attached as annexure marked **KOA-(1)**, leading to a consent executed on **14/5/2024** settling the suit, annexed as **KOA-(2)**.
- 3.** In the said consent, the deponent states that the costs of the case were awarded to the 4th defendant, to be borne by the plaintiff and the 6th defendant equally, which was to be agreed, took place, and was settled.
- 4.** The deponent deposes that he has been unable to engage and or agree with the 6th defendant to pay the

costs, leading to an application to have them set aside as per the ruling annexed as **KOA-(3)**.

5. The deponent deposes that there is no possibility that the 6th defendant will engage him, let alone pay any money towards the cost to the 4th defendant.
6. The deponent deposes that after attempts to engage the 6th defendant, the bill of costs was filed whereby the taxing master, in her ruling, attached as **KOA-(4)**, declined jurisdiction, which decision is termed as erroneous in law, as regards to advocates-client bills of cost, especially when the 4th defendant's bill of costs dated **24/6/2025** had not been opposed.
7. The applicant deposes that it has now filed a reference to this court under paragraph **(11)(2)** of the **Advocates Remuneration Order 2014**. The applicant deposes that this court has the power to revise, vary, and re-tax the bill as presented. The chamber summons is opposed on the grounds of opposition dated **6/10/2025**.
8. What was before the taxing master was an amended party-to-party bill of costs dated **3/6/2025**, brought by the 4th defendant. After a preliminary objection raised on the competence of the Deputy Registrar to tax it, a ruling was delivered on **28/8/2025**. **Rule 50** of the Advocates Remuneration Order Schedule **V1**

relates to the assessment or taxation of costs in proceedings before the High Court. **Schedule V1** is divided into two parts. **Part A** deals with party-to-party costs.

9. Any party dissatisfied with a taxing master's ruling makes a reference to the High Court under **Rule 11** of the Advocates Remuneration Order, within **14 days** of the delivery. The **Rule** established a two-pronged process. He has to give notice of the item of taxation and or seek reasons thereof under *para. (11)(2)* of the **Rule**.

10. A reference has to be made, and a chamber summons as per Paragraph **11** of the Advocates' Remuneration Order. In this matter, what the 4th defendant has done is to file a chamber summons in the same file and has assumed it to be a reference, hence asks the court to set aside the ruling dated **28/8/2024** and re-tax the bill. A reference has to be filed within **14 days**. This means that it ought to have been filed on or before **12/9/2025**.

11. What I have is not a reference under **Rule 11** of the Advocates Remuneration Order. See **Evans Thiga Gaturu -vs- Kenya Commercial Bank Limited**

[2012] eKLR. Jurisdiction is everything; without it, a court downs its tools. It must be properly invoked. The court cannot pronounce itself on the legality of the taxing master's decision declining jurisdiction without compliance with the law.

12. The chamber summons dated **10/9/2025** is struck out with no orders as to costs. The court at this juncture exercises restraint on the question of jurisdiction of the Deputy Registry on taxation matters.

13. Orders accordingly.

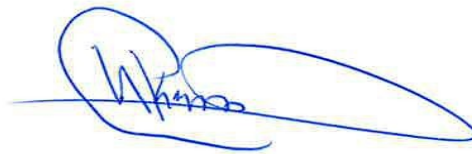
Ruling dated, signed, and delivered via Microsoft Teams/Open Court at Kitale on this 26th day of November 2025.

In the presence of:

Court Assistant - Dennis

Karani for Applicant present

Atudo for Respondent present



**HON. C.K. NZILI
JUDGE, ELC KITALE.**