



**Mwangangi & Company Advocates v Mbaabu (Environment and Land Miscellaneous Application E009 of 2023) [2025] KEELC 8170 (KLR) (25 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8170 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS**  
**ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E009 OF 2023**  
**AY KOROSS, J**  
**NOVEMBER 25, 2025**

**BETWEEN**

**MWANGANGI & COMPANY ADVOCATES ..... ADVOCATE**

**AND**

**ANGELLINA MUENI MBAABU ..... CLIENT**

**RULING**

1. Before this court for determination are two notices of motion filed by both parties. The first one is filed by the client dated 11 10 2024, and the second one by the advocate dated 6 12 2024, in which they have both challenged the decision of this court rendered on 10 07 2024 and invoked the slip rule for the purpose of correcting alleged arithmetical errors in this impugned decision. A summary of the motions and the responses thereto shall be provided shortly.

**Client's notice of motion dated 11 10 2024**

2. In this one, the client seeks the following reliefs: -
  - a. Spent.
  - b. Spent.
  - c. The honourable court be pleased to review its ruling delivered on 10 07 2024 to amend the arithmetical mistake and or error apparent on the face of the ruling on account of the total amounts stated therein.
3. The motion is based on the grounds listed on its face and the client's supporting affidavit, sworn on the instant date. A summary of the grounds supporting the motion is:
  - (a) in the impugned ruling, the court taxed the client's bill of costs ("BOC") at the sum of Kshs. 1,264,669.00 =;



- (b) at paragraphs 42 & 50 of the said ruling, the court properly analysed the pleadings by the parties and the applicable law, awarding a total sum of Kshs 45,000.00 to the advocate for items no. 4, 18, 29, 33, 44 and 48 under Schedule 6 of the Advocates Remuneration Order (“ARO”); and
  - (c) At paragraph 50 of the impugned ruling, the court revised the instruction fees awarded to the advocate from Kshs. 500,000.00 to Kshs. 1,700,000.00. The total of Kshs. 45,000.00 plus Kshs. 1,700,000.00 is subject to VAT of 16%; (d) in arriving at the total amount, the court also considered the earlier deposit paid by the client to the advocate of Kshs. 838,676.41 and finally taxed the bill at the amount specified in paragraph (a) above; (e) based on the above calculation, the total amount determined by the court is incorrect, and the same should be rectified to avoid a miscarriage of justice to the client; finally, f) the court made an error on the face of the record by taxing the client’s BOC at a sum of Kshs 1,264,669 instead of Kshs 1,185,523.59, thereby necessitating the filing of this application to review.
4. In a brief response, the advocate challenged these assertions with an affidavit sworn by Mrs Florence M. Mwangangi on 23 07 2025, where she simply states that no case has been made out for the errors and that the only errors in the impugned ruling are those presented in the advocate’s motion of 6 12 2024.

**Advocate’s notice of motion dated 6 12 2024**

5. This motion seeks the following orders: -
- a. Spent.
  - b. That under the slip rule, the court be pleased to correct the arithmetical error in the final award of costs made to the advocate in the ruling delivered herein on 10 07 2024 on the taxation of the advocate client bill of costs herein dated 6 4 2021 to reflect a total award of Ksh. 1,427,717 = instead of the sum indicated of Ksh. 1,264,669 =, the difference arising as a result of omission in the final award in the said impugned ruling dated 10 7 2024 of awards made by the taxing officer in her taxation ruling dated 15 12 2022 on items of the bill of costs which were not challenged in the reference herein and which hence remained intact.
  - c. That the court do issue such other further orders as it may deem fit to issue to serve the interests of justice in the circumstances of the matter.
  - d. That the costs hereof be provided for.
6. The motion is based on the grounds apparent on its face and Mrs Mwangangi’s supporting affidavit, sworn on the same date as the motion. And chiefly states: (a) there is an arithmetical error which requires to be corrected by the court under the slip rule in the final award of costs made to the advocate in the impugned ruling on the assessment of advocate client BOC dated 6 4 2021; and
7. (B) The arithmetical error occurred due to an inadvertent omission of a total sum of Ksh. 140,558 = and the applicable 16% VAT in the sum of Ksh. 22,490 =, making a total of Ksh. 163,048 = on account of the costs awarded by the taxing officer under paragraph 6 of his taxation decision dated 15 12 2022 on item nos. 2, 7, 8, 10, 11, 12, 13, 15, 16, 19, 20, 22, 27, 30, 31, 36, 37, 41, 42, 45, 46, 47, 49, 51, 52, 53, 55, 58, 59 & 60; under paragraph 7 of the taxation decision on item nos 3, 5 & 39; under paragraph 8 of the taxation decision on item nos 6, 28, 32, 40, 43 & 50; under paragraph 9 of the taxation decision on item nos 17, 21, 23, 24 & 26; under paragraph 10 of the taxation decision on item nos 25 & 35; under paragraph 11 of the taxation decision on item nos 34 & 38; under paragraph 13 of the taxation decision on item nos 9 & 14; and under paragraph 15 of the taxation decision on item no. 57 of the advocate client bill of costs herein; (c) these awards were not in issue in the reference herein; hence,



they remained as awarded by the taxing officer, and, at last, (d) the said omitted sum of Ksh. 163,048 = needs to be included in the award of Ksh. 1,264,669 = made in the said impugned ruling, thus making a total sum of Kshs. 1,427,717 =.

8. Following this, the court directed that the opposing motions be treated as objections to each other, which may explain why the client did not submit any documents objecting to the advocate's motion.
9. Upon the court's directions, both parties filed their respective submissions on the motions, with the advocate submitting its own dated 26 06 2025 and Ms Bitala & Kakinga Advocates law firm on record for the client submitting theirs dated 19 07 2025. The court has considered these submissions and the arguments contained therein, together with the provisions of the law relied upon and the judicial precedents cited, which shall be regarded in this court's analysis and determination. Consequently, having carefully considered the motion, its grounds, affidavits, and submissions, the singular issue for determination is whether there are arithmetical errors in the impugned ruling.
10. Having identified the issue for determination, it is necessary to state the relevant law and prevailing jurisprudence. Respecting this, the principal statutory provision is found in our Sections 99 and 100 of the *akn ke act 1924 3 Civil Procedure Act*, which provide: -

Section 99

“Clerical or arithmetical mistakes in judgments, decrees or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the court either of its own motion or on the application of any of the parties.”

Section 100

“The court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceeding.”

11. Thus, an examination of this proviso shows that the slip rule applies for correcting clerical or arithmetical errors, or mistakes arising from “an accidental slip or omission.” Such corrections aim to reflect the manifest intention of the court at the time it issued the judgment, ruling, or order, and to amend errors it has made. Therefore, the court must be convinced that it is genuinely implementing its original intention when the impugned ruling was issued and that mistakes are rectified. Several judicial pronouncements have outlined the guiding principles of law on this matter, but of most significance is the Kenya Supreme Court decision of *Outa v Okello & 3 others* [2017] KESC 25 (KLR), which binds this court, and in it, it was stated: -

“By its nature, the Slip Rule permits a Court of law to correct errors that are apparent on the face of the Judgment, Ruling, or Order of the Court. Such errors must be so obvious that their correction cannot generate any controversy, regarding the Judgment or decision of the Court. By the same token, such errors must be of such nature that their correction would not change the substance of the Judgment or alter the clear intention of the Court. In other words, the Slip Rule does not confer upon a Court, any jurisdiction or powers to sit on appeal over its own Judgment, or, to extensively review such Judgment as to substantially



alter it. Indeed, as our comparative analysis of the approaches by other superior Courts demonstrates, this is the true import of the Slip Rule.”

See also *Leonard Mambo Kuria v Ann Wanjiru Mambo* [2017] KECA 782 (KLR), and *Five Star Agencies Limited v National Land Commission* [2022] KEELC 14745 (KLR).

12. In the present case, the advocate has not seriously challenged the assertions contained within the client’s motion. Since this is a court of record, the court will refer to the record to determine whether any mistake has been made that is rectifiable under the slip rule. Concerning the advocate’s motion, the client has argued that no error exists and has drawn the court’s attention to paragraphs 46, 47, 48, and 49 of the impugned ruling, maintaining that the advocate’s attempt to seek an appeal through the back door is untenable. Having stated this, we will now turn our attention to the various errors as alleged:

I. Item nos: 2, 7, 8, 10, 11, 12, 13, 15, 16, 19, 20, 22, 27, 30, 31, 36, 37, 41, 42, 45, 46, 47, 49, 51, 52, 53, 55, 58, 59 & 60; 3, 5 & 39; 6, 28, 32, 40, 43 & 50; 17, 21, 23, 24 & 26; 25 & 35; 34 & 38; 9 & 14; and, 57.

13. Concerning this limb and specifically in presenting the advocate’s arguments on this issue, Mrs Mwangangi has based her arguments on a strange notice of motion dated 15 12 2022 and paragraphs of this court’s ruling in *Mwangangi & Co. Advocates v Mbaabu* [2024] KEELC 5375 (KLR), which pertains to a related matter and not this case. In these circumstances, her arguments do not carry any weight.

14. Reverting to the impugned ruling, the subject matter thereof was the chamber summons dated 25 01 2023 filed by the advocate against the client seeking the following specific orders that are captured in the impugned ruling: -

- a. Spent.
- b. Spent.
- c. Spent.
- d. That the decision dated 15 12 2022 in the said *Machakos Misc. Application No. E022 of 2021* be set aside or vacated for being erroneous on principle, law, and the facts of the case regarding the finding of the taxing officer on;
  - i. The nature of the legal services rendered to the respondent by the applicant in relation to LR No. 7885 17, which gave rise to the bill of costs herein and her award on instructions fees therefor under item No. 1 on the bill of costs;
  - ii. The matter of the value of LR No. 7885 5, whose registration gave rise to the matters herein;
  - iii. The awards on item Nos. 1, 4, 18, 29, 33, 44, & 48 of the bill of costs;
  - iv. The purported security and disbursements allegedly paid by the respondent on the registration of a title for the said L.R. No. 7885 17;
  - v. The interest chargeable on the Applicant’s costs;
  - vi. The issue of storage charges for the certificate of title and related documents for the said L.R. No. 7885 17.



- e. That in the interest of justice and on the basis of the overriding objective principle, this honourable court be pleased to assess the costs lawfully payable to the applicant on the bill of costs herein by determining the issues raised under prayer 4 a- g above and in alternative the bill of costs be expeditiously re-taxed by a different taxing officer on the said issues in prayer 4 a – g above upon appropriate directions of this honourable court.
- f. That this honourable court do issue such other further orders as it may deem fit to issue for a just and expeditious disposal of the application to serve the ends of justice in the circumstances herein.
- g. That the costs hereof be borne by the respondent.
15. This court’s understanding of these reliefs is that the advocate was dissatisfied with the taxing officer’s decision on the specified items as contained in the summons, while the rest were to remain intact. This court has considered the impugned ruling from paragraphs 29 onwards, resting with paragraph 50, which states explicitly: -
- “In the premises, the reference succeeds, and the court sets aside the taxing officer’s award of Kshs. 500,000 = on instruction fees and makes an award of Kshs. 1,700,000 =. In addition, the award in regard to items 4, 18, 29, 33, 44 & 48, is made in the sum of Kshs. 45,000 =. The total of the above figures attracts VAT at 16%. In the end, taking into account the deposit paid by the respondent being the sum of Kshs. 838,676.65 =, the applicant’s bill of costs dated 28<sup>th</sup> May 2021 is hereby taxed in the sum of Kshs. 1,264,669 =. Each party shall bear its own costs.”
16. Having considered these paragraphs, this court does not entertain in its mind that it made an arithmetical error in failing to include these items as per the costs awarded by the taxing officer. In paragraph 6 of his decision, the taxing officer found that item nos. 2, 7, 8, 10, 11, 12, 13, 15, 16, 19, 20, 22, 27, 30, 31, 36, 37, 41, 42, 45, 46, 47, 49, 51, 52, 53, 55, 58, 59 and 60 were drawn to scale. The total sums under this head are Kshs. 123,500 =
17. In paragraph 7 of the taxation decision, items nos 3, 5, & 39 were taxed at Ksh 250 each, resulting in a total of Ksh.750 under this head; for items listed under paragraph 8 of the taxation decision on item nos 6, 28, 32, 40, 43, & 50, each was taxed at Ksh 30, amounting to Ksh 180; under paragraph 9, on items nos 17, 21, 23, 24, & 26, each was taxed at Ksh. 70, totalling Ksh. 350; under paragraph 10, on item nos 25 & 35, a total of Ksh 300 was awarded; under paragraph 11, on items nos 34 & 38, a total sum of Ksh. 300 was awarded; under paragraph 13, on items nos 9 & 14, each was taxed at Ksh. 6,250, making a combined total of Ksh 12,500; and under paragraph 15, on item no. 57, it was taxed at Ksh. 325.
18. Suffice it to say, all these sums total Kshs. 137,880 =. In conclusion, this court agrees with the advocate that there was an arithmetical error in the impugned ruling. It also finds that the error was to the tune of Kshs. 137,880 =. It also finds that the tax applicable to it was 16% VAT, which was Kshs. 22,060 =. In the end, this court determines that the final arithmetical error on these heads was Kshs. 159,940 =
- II. Other arithmetic errors
19. Concerning this, this court has no difficulty in concurring with the client as the total sum elucidated in paragraph 50, which was earlier highlighted, totaled Kshs 1,185,523.59 and not the erroneous figure of 1,264,669 =. Therefore, this court finds that the error under this head was by Kshs. 79, 145.41 =.
20. The upshot of the foregoing is that this court determines and affirms that the notices of motion dated 11 10 2024 and 6 12 2024 are justified and therefore granted. Considering that the errors originated



from the court and not the parties involved, there shall be no orders concerning costs. The contested ruling will be reviewed at paragraph 50 to account for the incorrect figures, hence leading to the following final disposal orders:

- a. The ruling dated 10 07 2024 is reviewed and, in particular, paragraph 50, which is to read as follows:

“In the premises, the reference succeeds, and the court sets aside the taxing officer’s award of Kshs. 500,000 = on instruction fees and makes an award of Kshs. 1,700,000 =. In addition, the award in regard to items nos. 4, 18, 29, 33, 44 and 48 is made in the sum of Kshs. 45,000 =. Further, items nos. 2, 7, 8, 10, 11, 12, 13, 15, 16, 19, 20, 22, 27, 30, 31, 36, 37, 41, 42, 45, 46, 47, 49, 51, 52, 53, 55, 58, 59 and 60; 3, 5, & 39; 6, 28, 32, 40, 43, and 50; 17, 21, 23, 24, and 26; 25 & 35; 34 & 38; 9 & 14, and 57, are retained at Kshs. 137,880 =. The total of the above figures attracts VAT at 16%. In the end, taking into account the deposit paid by the client being the sum of Kshs. 838,676.65 =, the advocate client’s bill of costs dated 28<sup>th</sup> May 2021 is hereby taxed in the sum of Kshs. 1,345,464.15 =.”

- b. No orders as to costs.
- c. File is hereby effectively marked as closed.

Orders accordingly.

**DELIVERED AND DATED AT MACHAKOS THIS 25<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**HON. A. Y. KOROSS**

**JUDGE**

11.2025

Ruling delivered virtually through Microsoft Teams Video Conferencing Platform

In the presence of;

Ms. Kanja Court Assistant.

Miss Wainaina holding brief for Mr. Kakinga for Respondent.

Mrs. Mwangangi for Advocate.

