



**Mwangangi & Company Advocates v Mbaabu (Environment and Land Miscellaneous Application E010 of 2023) [2025] KEELC 8155 (KLR) (25 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8155 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E010 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 by amending and/or rectifying the arithmetical mistake and/or error apparent on the face of the ruling on account of the total taxed amount due to the client.
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) the impugned ruling taxed the advocate/client bill of costs ("BOC") at the sum of Kshs. 3,969,626.00/=; (b) at paragraph 49 of the impugned ruling, the court awarded a total sum of Kshs. 14,890 to the advocate for items nos. 23,



- 33, 34, 36, 37, 40, 43 and 47 under Schedule 6 of the Advocates Remuneration Order, and the court found that the taxing officer had erroneously awarded an excess sum of Kshs 4,746 to the advocate.
4. (C) At paragraph 57 of the impugned ruling, the court revised the instruction fees awarded to the advocate from Kshs. 500,000.00 to Kshs. 4,000,000. The total of Kshs. 14,890 plus Kshs. 4,000,000 is subject to VAT at 16%; (d) in arriving at the total amount, the court also took into account the earlier deposit paid by the client to the advocate of Kshs. 838,676.41 and finally taxed the bill at the sum of Kshs. 3,969,626.00; and, in the end, (e) the court made an error on the face of the record by awarding Kshs 3,969,626 instead of Kshs 3,818,595.99, thus necessitating the filing of this application to review and rectify the above error.
5. 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**

6. 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 Applicant in the Ruling delivered herein on 10/7/2024 on the taxation of the Advocates/Client Bill of Costs herein dated 28/5/2021 to reflect a total award of Ksh. 4,139,445/= instead of the sum indicated of Ksh. 3,969, 626/=, the difference arising from the omission in the final award in the said 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 contested in the Reference herein which hence remained intact, and further, on awards made by the Taxing Officer in her said Ruling on other Items of the Bill of Costs which this Court upheld in the said Ruling dated 10/7/2024.
  - 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.
7. 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 requiring correction 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 the advocate/client BOC dated 28/5/2021;
  - (b) the impugned ruling omitted the sum of Ksh. 169, 819/= that needs to be included in the award of Ksh. 3,969,626/= to make a final award of Ksh. 4,139,445/=; and
  - (C) The arithmetical error arose due to an inadvertent omission of a total sum of Ksh. 146, 395/= and the applicable 16% VAT in the sum of Ksh. 23, 424/= making a total of Ksh. 169, 819/= on account of costs not contested in the reference herein as awarded by the taxing officer under paragraph 6 of her taxation decision dated 15/12/2022 on item nos.1, 3, 9, 11, 16, 28, 30, 50, 51, 52, 55, 56, 59, 60 & 61; paragraph 7 on item nos 4, 7, 33, 36, 39 & 43; paragraph 8 on item nos 5, 8, 32, 34, 37, 40 & 44; paragraph 9 on item nos 23 & 25; paragraph 10 on item nos 27 & 29 all of which remained as awarded by the taxing officer; and the awards under paragraph 12 on item nos 6, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 26, 35, 38, 41, 42, & 49 which



were the subject matter of the reference herein but the decision thereon by the taxing officer was upheld in the impugned ruling.

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 [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: 1, 3, 9, 11, 16, 28, 30, 50, 51, 52, 55, 56, 59, 60 & 61; 4, 7, 33, 36, 39 & 43; 5, 8, 32, 34, 37, 40 & 44; 23 & 25; 27 & 29; and 6, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 26, 35, 38, 41, 42, 49 & 53

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, which this court disregards. 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 said decision dated 15/12/2022 in the said Machakos ELC Misc. Application No. E033 of 2021 be set aside or vacated for being erroneous on principle, law, and the facts of the case regards the finding of the taxing officer on;
  - i. The nature of the legal services rendered to the respondent by the applicant, which gave rise to the bill of costs herein, and her award of instructions fees under item No. 1 on the bill of costs;
  - ii. Failure to make determinations on item Nos. 6, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 26, 31, 35, 38, 41, 42, 45, 49, & 53 of the bill of costs;
  - iii. The matter of the value of LR No. 12648/149 herein, whose registration gave rise to the matters herein;
  - iv. Making improper determinations on item Nos. 23, 33, 34, 36, 37, 40, 43, 47 & 48 of the bill of costs by reason of failing to apply the applicable law in assessing costs thereunder.
  - v. The purported security and disbursements allegedly paid by the respondent on the registration of a title for the said LR No. 12648/149.
  - vi. The interest chargeable on the Applicant's costs;
  - vii. The issue of storage charges for the certificate of title and related documents for the said LR No. 12648/149;
  - viii. The taxing of the bill of costs at Kshs. 753, 808/20= and that the Respondent had paid the applicant in excess of Kshs. 84,868/21, both figures being erroneous not only



on account of the matters under 4 a-g but also from the awards that the taxing officer made on various items of the bill of costs.

- 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- h above and also in alternative the bill of costs be expeditiously re-taxed by a different taxing officer on the said issues in prayer 4 a – h 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.

14 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, particularly paragraphs 46, 47, 48, 49 and 57, which state explicitly: -

- “46. On whether the taxing officer failed to determine items 6, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 26, 31, 35, 38, 41, 42, 45, 49 & 53, the ruling shows that the taxing officer did not refer to all the items but grouped them into attendances, copies, travelling and made the findings which are at paragraphs 11 to 14. I therefore find that the fact that determinations were made on grouped items without specifying each of them did not in any way result in miscarriage of justice.
- 47. In addition, the applicant argued that items 23, 33, 34, 36, 37, 40, 43, 47 & 48 ought to have been taxed under schedule 6 and not 5 as was done by the taxing officer.
- 48. The said items are in regard to drawing a bill of costs and making copies thereof; drawing taxation notice and making copies thereof; making copies of affidavit of service; drawing certificate of costs and photocopying. I agree with the applicant that those items ought to be taxed under schedule 6 as the same refer to contentious matters and were done pursuant to the taxation in court after the parties could not agree, all of them having been done in regard to contested proceedings being Machakos Misc. Application No. 33 of 2021. In the premises, I find and hold that the taxing officer was wrong in principle in applying schedule 5 on the above items as she ought to have applied schedule 6.
- 49. Item 23 being for perusal of a letter on rent apportionment, was pursuant to instructions of the client and therefore, I find and hold that schedule 5 applies. Schedule 6 applies to the rest of the said items. On item 33, for drawing a bill of costs of 56 folios, the applicant is entitled to Kshs. 10,080/= under paragraph 4 (e) of schedule 6. For item 34 which is in regard to making copies of 112 folios of the bill of costs, under paragraph 5 (a) of schedule 6 which provides for Kshs. 25/= per folio, the applicant is entitled to Kshs. 2,800/=. For item 37 regarding making copies of 4 folios of taxation notices, the applicant is entitled to Kshs. 100/-. On items 38, 41 and 45 seeking costs on travelling to court to file bill of costs, schedule 6 does not provide for travelling. However, under paragraph



7 (b) thereof attendance to offices of court provides for Kshs. 500/= which is allowed for each item. Regarding item 40 for making copies for 2 folios of return of service, Kshs. 50/= is awarded. On item 43 for drawing certificate of certificate of taxation of 2 folios, a sum of Kshs. 360 is hereby allowed. Item 48 does not disclose the particulars of the documents photocopied and therefore it is taxed off. This makes a total of Kshs. 14,890/=. Therefore, in awarding a sum of Kshs. 19,363/= for the above items, the taxing officer erroneously awarded an excess sum of Kshs. 4,746/=.....

57. In the premises, the reference succeeds, and the court awards the applicant Kshs. 4,000,000/= in regard to instruction fees. The award in regard to items 33, 34, 35, 37, 38, 40, 41, 42, 43 and 45 are taxed as per schedule 6 and the sum of Kshs. 4,746/= which was an over assessment is taxed off. The total amount above attracts VAT of 16%. In the end, taking into account the deposit paid by the respondent in the sum of Kshs. 838,676.41/=:, the applicants bill of costs dated 28<sup>th</sup> May 2021 is hereby taxed in the sum of Kshs. 3,969,626/=".

15. Having thoroughly examined these paragraphs and in agreement with the client, item nos. 33, 34, 43, 37, 38, 40, 41, 42, and 43 were evaluated in the contested ruling -the excess assessment of Kshs. 4,746/= was tabulated in the final calculation. This court determines that there was no arithmetic error concerning these items. Moreover, this court's jurisdiction is exhausted on these specific matters; therefore, if any party is aggrieved, the sole recourse available is to file an appeal.
16. Nonetheless, although items nos. 23 & 36 were the subject of the reference, and this court acknowledged so in its ruling; it erroneously failed to tabulate the figures under these items, which were respectively on perusing and drawing a taxation notice. Upon review of these items, it is finds that the applicable proviso is Schedule 5 Part II paragraph 2 of the Advocates Remuneration Order, which provides a fee of Kshs. 70 and Kshs. 250 respectively, and these are not charged per folio. Therefore, these items are assessed at Kshs. 320.
17. Regarding items nos. 6, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 26, 31, 35, 38, 41, 42, 45, 49, and 53, the decision of the taxing officer was upheld in the impugned ruling. However, this figure was mistakenly not included in the final tabulation. Moreover, this court does not entertain in its mind that it made an arithmetical error in failing to include items that were not the subject of the reference and were to be maintained as per the costs awarded by the taxing officer. These are item nos: 1, 3, 9, 11, 16, 28, 30, 50, 51, 52, 55, 56, 58, 59, 60 & 61; 4, 7 & 39; 5, 8, 32, & 44; 25 and 27 & 29, all of which were retained as awarded by the taxing officer. The total sums under all these heads are Kshs. 154,265/=".

## II. Other arithmetic errors

18. Concerning this, this court has no difficulty in concurring with the client as the total sum elucidated in paragraph 57, which was earlier highlighted, totalled Kshs 3,818,595.99/= and not the erroneous figure of 3,969,626 /=".
19. 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 57 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 57, which is to read as follows:



“In the premises, the reference succeeds, and the court awards the advocate Kshs. 4,000,000/= in regard to instruction fees. The award in regard to items 33, 34, 35, 37, 38, 40, 41, 42, 43 and 45 are taxed as per schedule 6 and the sum of Kshs. 4,746/= which was an over assessment is taxed off. Further, item nos. 23 & 36; 6, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 26, 31, 35, 38, 41, 42, 45, 49, & 53; 1, 3, 9, 11, 16, 28, 30, 50, 51, 52, 55, 56, 58, 59, 60 & 61; 4, 7 & 39; 5, 8, 32, & 44; 25 and, 27 & 29 are retained at Kshs. 154,265/=. The total of the above figures attracts VAT at 16%. In the end, taking into account the deposit paid by the client in the sum of Kshs. 838,676.41/=:, the advocate/client’s bill of costs dated 28<sup>th</sup> May 2021 is hereby taxed in the sum of Kshs. 3,997,543/=. ”

b. No orders as to costs.

Orders accordingly.

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

**HON. A. Y. KOROSS**

**JUDGE**

**25. 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 Applicant.

