



**Scion Healthcare Limited v CIC General Insurance Limited (Civil Case 192 of 2017)
[2025] KEHC 17192 (KLR) (Commercial and Tax) (20 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17192 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE 192 OF 2017
PM MULWA, J
NOVEMBER 20, 2025**

BETWEEN

SCION HEALTHCARE LIMITED APPLICANT

AND

CIC GENERAL INSURANCE LIMITED RESPONDENT

RULING

1. Before the court is the Chamber Summons application dated 19th December 2024, brought under Section 48 of the *Advocates Act*, Section 11 of the Advocates Remuneration Order, Section 1A, 1B and 3A of the *Civil Procedure Act*, Order 50 of the Civil Procedure Rules 2010, Article 50 of *the Constitution* of Kenya.
2. The Applicant, in summary, seeks an interim order of stay of execution of the certificate of costs; an interim injunction restraining the Respondent from disposing of the Applicant's properties; leave be granted to the Applicant to file a reference out of time against the taxing officer's decision on the Bill of Costs dated 25th November 2024; the reference herein is deemed as duly filled and served; this court does review, vary and/set aside the taxing officer's decision and ruling delivered on 25th November 2024; and that the Respondent's bill of costs dated 10th July 2024 be remitted back to a different taxing officer for fresh taxation.
3. The application is premised on the grounds of the face of the record and supported by the annexed affidavit of Gilbert Nyamweya. He contends the Taxing Master delivered a ruling on 25th November 2024, assessing the Respondent's Bill of costs at Kshs 1,846,637/=. That the reference was not filed within the prescribed timelines. He contends he was away on official engagements and did not receive proper notice of the date of the taxation ruling, and was thus unable to challenge the decision within the stipulated timelines. Since the Respondents are in the process of executing the decree, the execution



will prejudice the patients care and disrupt essential medical care. The applicant is aggrieved by the decision of the Taxing Officer and intends to challenge the same. That the taxing master misdirected herself in applying the principles of taxation, and there is no prejudice that will be suffered by the Respondent if the orders sought are granted.

4. Opposing the application Peter Simiyu filed a replying affidavit and grounds of opposition both dated 29th January 2025. He contends that the taxing master's ruling was delivered on 25th November 2024, the Respondent received a certificate of taxation dated 29th November 2024 and applied for execution of the same against the Applicant. He contends that the application fails to list the items in the bill of costs objected to, the application is couched as an appeal to the ruling delivered by the taxing master, and the the application has not met the threshold in law to warrant the prayers sought.
5. The application was heard through written submission which both parties filed.

Analysis and determination

6. I have carefully considered the Chamber Summons application, the supporting affidavit, the replying affidavit, the grounds of opposition, and the submissions by both parties. From the material before me, the issues that fall for determination are:
 - a. Whether the court should grant the Clients-Applicants leave to file this reference out of time.
 - b. Whether the Applicant merits a stay of execution.
 - c. Whether the court should set aside the decision of the taxing master delivered on 25th November 2024, taxing the Bill of costs at Kshs 1,846,637/=.
 - d. Who should bear the cost of the application.
7. Paragraph 11 of the Advocates Remuneration Order sets out the procedure and strict timelines for challenging a decision of a Taxing Master. The provision stipulates that:
 - “(1) Should any party object to the decision of the Taxing Master, he may within fourteen days after the decision give notice in writing to the Taxing Master of the items of taxation to which he objects.
 - (2) The Taxing Master 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.
 - (3) Any person aggrieved by the decision of the judge upon any objection referred to such judge under subsection (2) may, with the leave of the judge but not otherwise, appeal to the Court of Appeal.
 - (4) The High Court shall have power in its discretion by order to enlarge the time fixed by subparagraph (1) or subparagraph (2) for the taking of any step; application for such an order may be made by chamber summons upon giving to every other interested party not less than three clear days' notice in writing or as the Court may direct, and may be so made notwithstanding that the time sought to be enlarged may have already expired.”



8. It is therefore clear that the Court has discretionary authority to enlarge time for filing a reference, provided the Applicant establishes sufficient cause for the delay.
9. In an application for enlargement of time, the whole period of delay should be declared and explained satisfactorily to the court (See Nicholas Kiptoo Korir Arap Salat vs Independent Electoral & Boundaries Commission & 7 others (2014) eKLR).
10. In the present case, the Plaintiffs have lodged an application dated 19th December 2024 seeking enlargement of time to file a reference out of time. The ruling on taxation was delivered on 25th November 2024, and the application was filed 24 days thereafter. The Applicants contend that they were unaware of the taxation date and that official engagements hindered their attendance. However, no documentary evidence, such as notices, correspondence, or proof of official engagement, has been placed before the Court to support these assertions. The explanation is therefore general and unsupported. I find that the Applicants have not provided a sufficient or satisfactory explanation for the delay.
11. The Respondent demonstrated that the Certificate of Taxation was issued on 29th November 2024 and that the Applicants took no action until they filed the present application on 19th December 2024. Delay must be explained with precision and candour. The Applicants have not shown that their failure to act was excusable or caused by circumstances beyond their control.
12. Further, the reference annexed to the application does not identify the specific items objected to as required under Paragraph 11(1) and (2). Instead, the Applicant appears to challenge the entire ruling, effectively mounting an appeal. A reference must be specific. This omission is fatal.
13. On the prayer for stay of execution, the principles are set out under Order 42 Rule 6(2) of the Civil Procedure Rules, as emphasized in the case Peter Ondande T/A Spreawett Chemis –Vs- Josephine Wangari Karanja (2006) eKLR:

“For this Court to grant stay of execution, it must be satisfied that substantial loss may result to the applicant if stay is not granted. Further, the applicant must have filed the application for stay of execution without unreasonable delay. Finally, the applicant must provide such security as may ultimately be binding upon him.”
14. The Applicants contend that execution will disrupt patient care. However, no evidence has been tendered to support this allegation, no financial records, audited statements, or operational data have been provided. The assertions remain speculative. In Kenya Shell Ltd v Kibiru & Another [1986] KLR 410, the Court of Appeal held that substantial loss must be real, demonstrable, and not speculative. On this basis, the Applicants have not satisfied the requirements for stay.
15. On the prayer to set aside or remit the bill for fresh taxation, the jurisdiction of this Court is only properly invoked through a competent reference. Since no valid reference has been filed, the prayers are premature. The Court cannot interrogate the merits of taxation in the absence of a properly framed challenge.
16. In light of the foregoing, I find that the application lacks merit. The Respondent is entitled to enjoy the fruits of its lawful taxation.
17. Accordingly, the Chamber Summons dated 19th December 2024 is hereby dismissed in its entirety.
18. The prayer for stay of execution is declined.
19. Costs of this application are awarded to the Respondent.



It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT NAIROBI THIS 20TH DAY OF NOVEMBER 2025.

P.M MULWA

JUDGE

In the presence of:

Mr. Nyagaka h/b for Mr. Nyamweya for Applicant

Mr. Maina for Respondent

Court Assistant: Carlos

