

4. This Honourable Court be pleased to issue any other or further orders as it may deem just, reasonable and expedient in the circumstances.

5. The costs of the application be provided for.

2. The application is premised on the grounds on its face. It is further supported by the affidavit of Agnes Wairimu Njoroge, the advocate/applicant. She deposed that in Milimani High Court ELC 177 of 2016, the client/ respondent obtained judgment in her favour for annulment of Title No. Nairobi/Block 7785/792.
3. The advocate/applicant further deposed that the client/respondent sold the piece of land at Kshs.240,000,000/- yet the land had been valued at Kshs.270,000,000/-. She went on to depose that the appeal was argued in their favour leading to recovery of her land which had been transferred to third parties. Thereafter, the client/respondent refused to pay the advocate's fees despite demand.
4. She deposed that the taxing officer in his ruling delivered on 8th May, 2025 erroneously stated that no valuation report had been tendered as evidence yet the same had been annexed to the Applicant's supporting affidavit.

5. She added that based on the valuation report, the instruction and getting up fees ought to be much higher since the taxing officer did not consider it while arriving at the ruling.
6. She further deposed that the interests on the taxed amount should also be awarded from 22nd October, 2022 when fees were first demanded but remained unpaid.
7. The application was opposed vide the replying affidavit of Caroline Njeri Mwicigi, the client/respondent sworn on 14th August, 2025. She deposed that the advocate/applicant had filed a series of four Bill of Costs in ELCL Misc Nos E249, E250, E251 and E252 of 2024. She added that the same involved the same parties, subject matter and same legal services rendered in both trial and court of appeal courts.
8. She further deposed that the four Bill of Costs were taxed by the same taxing officer and that the value of the suit property was considered in ELCL Misc E251 of 2024 where the Bill was taxed at Kshs.42,617, 285/-. She also deposed that the advocate/applicant's instructions in E249 was limited to defending the appeal which was canvassed through submissions.
9. She deposed that the above did not require extensive litigation or oral hearings. She further averred that the claim of

Kshs.51,412,885/- for preparing and filing written submissions in the Court of Appeal is grossly exaggerated and disproportionate to the scope of legal service rendered.

- 10.** She went on to depose that the advocate/applicant did not demonstrate how the taxing officer misapplied the principles of taxation in arriving at the taxed amount. She deposed that there was no reason to disturb that award of Kshs.497,318.33/-.
- 11.** The application was canvassed by way of written submissions. The applicant filed her amended written submissions dated 22nd October, 2025.
- 12.** On the first issue, and with regard to the instruction fees the advocate/applicant submitted that vide a valuation report dated 3rd December, 2019 by M/s Regent Valuers, the same placed the value of the subject matter of the appeal at Kshs.270,000,000/=.
- 13.** The applicant further submitted that the sum of Kshs.4,270,000/- was the bare minimum basic instruction fee. She submitted that the taxing officer was to also consider the length of time taken being 4 years, nature of the subject matter and complexity of the matter which involved voluminous documentation.

14. She submitted that the amount billed by the advocates was not excessive and that the taxing master had no basis in arriving at the sum of Kshs.497,318.33/- as instruction fees. She added that the said amount ought to be set aside and the bill re-taxed at no less than minimum instruction fees.
15. She further submitted that the taxing master erred in failing to account the value of the property as the basis of the instruction fees despite the value of the suit property having been adduced as evidence vide the valuation report annexed.
16. On the second issue regarding getting up fees, the advocate/ applicant submitted that the taxing master failed to properly assess the getting up fees. She further submitted that the same ought to be a 1/3 of the instruction fees.
17. The client/respondent filed her written submissions dated 5th November, 2025 where she raised two issues for determination as listed below:-
- a. Whether the taxing officer erred in law or principle in taxing the Advocate-Client Bill of Costs in ELCL Misc No. E249 of 2024; and***
 - b. Who should bear the costs of the application.***

- 18.** On the first issue, the client/ respondent submitted that the total amount awarded for the four Bill of Costs was Kshs. 45,666,689.99/- with ELCL Misc No. E251 of 2024 attracting the highest amount of Kshs. 42,617,285. She submitted that the advocate's instructions in ELC Misc No. 249 of 2024 was limited to defending the Civil Appeal No. 410 of 2018 which was canvassed through submissions.
- 19.** Further, it was submitted that the advocate/applicant's claim of Kshs.51,412,885/- for preparation and filing of the written submissions is grossly exaggerated and disproportionate to the nature and extent of the legal work involved.
- 20.** She submitted that the taxing officer applied the correct principles under the **Advocates Remuneration Order 2014** and exercised discretion judiciously in awarding Kshs. 497,318.33. She relied on the cases of **Joreth Ltd V Kigano & Associates (2002) 1EA 92 (CAK)**, **First American Bank of Kenya V Shah (2002) 1EA 92** and **Premchand Raichand Limited & Another V Quarry Services of East Africa Limited & Another [1972] EA 162.**
- 21.** It was her submission that the taxing master's decision cannot be impugned merely based on quantum but an error of principle. She submitted that the advocate/applicant failed to establish any legal or factual basis for reassessment or fresh taxation.

22. On the second issue of costs, she relied on the case of **Cecilia Karuru Ngayu V Barclays Bank of Kenya & Another [2016] eKLR** and urged the court to grant her costs.

23. I have considered the chambers summons, the responses thereto and the written submissions filed by both parties. In my view, the issue for determination is *whether the application has merit.*

24. The circumstances under which this court may or can interfere with the taxing officer's exercise of discretion are now well known. The taxing master must be guided by the principles governing taxation as was held in the leading case of **Premchand Raichand Ltd Another -vs- Quarry services of East Africa Ltd and Another No. 3 (1972) EA 162**. The principles laid out are:-

i. The instruction fee should cover the advocates work including taking instructions and preparing the case for trial or appeal;

ii. The taxing master was expected to tax each bill on its merits;

iii. The value of the subject matter had to be taken into account;

- iv. The taxing master's discretion was to be exercised judicially and not whimsically or capriciously;*
- v. Though the successful litigant was entitled to a fair reimbursement, the taxing master had to consider the public interest such that costs were not allowed to rise to a level that would confine access to the courts to the wealthy;*
- vi. No appeal or reference can be allowed unless the appellant can show or demonstrate that above mentioned principles have been breached because judges on appeal as a principle do not like to interfere with an assessment of costs by the taxing officer unless the officer has misdirected himself or herself in a matter of principle, but if the quantum of an assessment is manifestly extravagant, a misdirection of principle may be a necessary inference."*

- 25.** In applying the above principles to the circumstances of this case, the applicant filed the advocate-client bill of costs dated 12th November, 2024 seeking costs amounting to Kshs.32,226,122/-.
- 26.** Being dissatisfied with the ruling by the taxing officer delivered on 8th May, 2025 the applicant seeks that the ruling is set aside based

on the fact that the taxing officer did not consider the valuation report, complexity of the issues and that the taxation of items 1 and 2 were not in line with the provisions of **Schedule 6 Clause 7(d)** of the **Advocates Remuneration (Amendment) Order 2014**.

27. In opposition, the respondent contended that the bill of costs was taxed according to **Schedule 6**, and that there is no need to interfere with the said ruling. The respondent contended that the advocate's instruction fees was limited to defending the Civil Appeal No. 410 of 2018 which was canvassed through submissions. She also contended that Kshs.51,412,885/- for preparation and filing of submission was grossly exaggerated and disproportionate to the nature and extent of the legal work involved.
28. I have carefully perused the pleadings in the taxation proceedings before the taxing officer, and the impugned ruling. While the applicant argues that the suit property was to be valued at Kshs.270,000,000/- the valuation report dated 3rd December, 2019 was annexed in the Bill of Costs and not during hearing of the appeal. It is not in dispute that there were four Bill of Costs that were filed and taxed and the one in contention touched on the Civil Appeal No. 410 of 2018. It is this court's view that the appeal was canvassed by way of written submissions, and therefore, the taxing master applied his mind in arriving at the said figure. In addition,

the valuation report was only attached to the Bill of Costs and not a pleading in the main suit thus, the taxing master was not under an obligation to base the instruction fees on it.

29. It is this court's view that the advocate/applicant in stating that the amount was inordinately low without having pointed out the error by the taxing master is not sufficient to warrant interference by this court.
30. In the absence of any evidence, it is impossible to expect the taxation officer to fill a litigant's gap in her case. There being no evidence to substantiate the value of the subject matter, the taxation officer properly exercised his discretion in awarding instruction fees. With regard to item 2, the same was taxed according to scale and supported by the court file.
31. From the above, and in my view, I see no reason to disturb the findings by the taxing officer. The chamber summons dated 20th May, 2025 lacks merit, and it is hereby dismissed with no orders as to costs.

Orders accordingly.

**DATED, SIGNED & DELIVERED VIRTUALLY
THIS 11TH DAY OF DECEMBER, 2025.**

**HON. MBOGO C.G.
JUDGE
11/12/2025.**

In the presence of:

Mr. Benson Agunga - Court assistant

Mr. Oguye holding brief for Mr. Kimani for the Client/Respondent

No appearance for the Advocate/Applicant

ORIGINAL