

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
ELCLC NO 25 OF 2023

JAMES MWANIKI NJUGUNA.....PLAINTIFF

VERSUS

BENSON GACHAU

MUNGAI.....DEFENDANT

RULING

This Court is faced with the task of examining the Application dated 11/8/2025 on the part of the Plaintiff by way of a Motion where prayers are: -

- a. Spent
- b. Spent.
- c. That the firm of M/s Eunice Akello & Co Advocates be granted leave to come on record for the Applicant
- d. That pending the hearing and determination of this Application, this Court be pleased to issue and/or grant an Order of Stay of the Taxing Master's Certificate of Taxation issued on 9/4/2025.
- e. That this Court be pleased to allow this Application to be filed out of time.
- f. That this Court be pleased to vary/review the decision of the Taxing Master issued on 9/4/2025.

- g. That this Court be pleased to set aside the Certificate of costs issued on 9/4/2025.
- h. That the Taxing master erred for failure to consider the orders of 1/10/2024 by Honourable Mr Justice Angima that costs be taxed at 1/3.
- i. That this Court be pleased to order that a fresh taxation of costs be conducted before a Taxing Master.
- j. Any other Order.

On 13/11/2015 prayer No. (c) above was granted and is therefore not an issue for consideration. The Applicant, in an Affidavit in support by himself sworn on 11/8/2025, says he was served with a Certificate of Taxation issued by the Court on 9/4/2025 after which he unsuccessfully sought negotiations with a view to agreeing on a figure as the Respondent's fees. His advocates Kiminza & Ambani Advocates had ceased acting for him and therefore he was not notified nor represented in the taxation of the Bill.

He also says that the Advocate he had instructed Moses Andi, delayed to file this Application due to indisposition. The directions given by Honourable Mr Justice Angima on 1/10/2024, that the Bill be pegged to 1/3, were disregarded.

In the Replying Affidavit sworn on 21/8/2025 by the Defendant, Mr Benson Gacheru Mungai he admits that the Bill as taxed is proper and that he is only entitled to 1/3 of the taxed Bill as directed by

his Lordship Mr. Justice Angima and that therefore the Application should be dismissed with costs.

Although the Application dated 11/8/2025 for re-taxation was filed after inordinate delay and the same is an omnibus, I will excuse the Applicant for the reasons he has given for his delay, if true, they are excusable. I will limit the Application to only one issue. The Applicant has not pin-pointed any items that were exaggerated. All he says is that the Certificate of Costs did not consider the Directions of Mr. Justice Angima of 1/10/2024 that the Certificate of costs did not consider the Directions of the Judge of 1/10/2024 that the Certificate of costs be limited to 1/3 of the Bill which the Respondents is ready to abide by and it is hereby so ordered.

Ruling dated, signed and delivered at Nyandarua this 12th Day of February, 2026.

MUGO KAMAU
JUDGE

In the Presence of: -

Court Assistant: Samson.

Plaintiff: Mr. Andi.

Defendant: Mr. Wanyoike.

