

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL AND TAX DIVISION
MISC. APPL NO. E076 OF 2025

AMUGA & COMPANY
ADVOCATES.....
.....ADVOCATE

VERSUS

ERKA ANYANGO OGANDA & GEORGE OREJE
PETER OGANDA (SUED AS LEGAL
ADMINISTRATORS OF THE ESTATE OF WELSA
BANGE OGANDA AYOO ALIAS WELSA BANGE
OGANDA (DECEASED)

.....RESPONDENT

RULING

1. Before the court is a reference filed by the advocate through chamber summons dated 13.3.2025, expressed to be brought under **para. 11 (2) of the Advocates Remuneration Order (ARO), 2014** seeking: -

- (1) THAT the ruling of the taxing officer dated 7.3.2025 taxing the advocate-client bill of costs dated 15.1.2025 be set aside.**
- (2) THAT the subject bill of costs be taxed at Kshs. 7,450,163/-.**
- (3) THAT in the alternative, the subject bill of costs be referred back for taxation by a different taxing officer.**

2. In support of the application is a supporting affidavit sworn by **Paul Amuga** on 13.3.2025 and written submissions dated 3.6.2025.

3. The subject bill related to the **Estate of the late Welsa Bange Oganda** whose administration and distribution is the subject of **High Court Succession No. E081 of 2022** in which an order was made on 14.1.2025 requiring the advocate to tax his bill and file his certificate of costs before 26.3.2025.

4. The main grounds are: -

- (1) **The taxing officer erred in principle by failing to tax the bill of costs item by item.**
- (2) **The taxing officer erred by relying on the amount taxed by the Deputy Registrar of the Supreme Court, Kshs. 1,398,140/- and merely increasing it by one-half.**
- (3) **The bill has been taxed under the Supreme Court Rules, 2020 but ought to have been taxed under Schedule 6 of the ARO, 2014.**

(4) By doing so, the taxing officer awarded the advocate an amount which is too low in the circumstances.

5. The advocate relied on: -

(1) Tom Ojienda & Associates Advocate -vs- County Government of Narok [2021] eKLR

(2) First American Bank of Kenya Ltd v Gulab P. Shah & 2 Others, H.C.C. No. 2255 of 2000

Response

6. In response, the 1st respondent filed written submissions dated 11.6.2025.

7. The 1st respondent does not oppose the advocate's application save for items 1, 18, 23, 24, 29, 31, 33, 50, 51, 60, 64, 69 and 72.

8. The 1st respondent's partial concession to the application is informed by the following: -

a) The taxing officer should have taxed the Advocate-Client bill of costs under Schedule 6 of the ARO instead of relying on the taxation which was done by the other taxing officer under the Supreme Court Rules because the fees and other charges provided under Scheule

6 of the ARO and the Supreme Court Rules are very different.

b) The 1st respondent had proposed instruction fees of Kshs. 2,570,000/= and getting up fees of Kshs. 856,667/= in view of the undisputed value of the subject matter being Kshs. 150 million.

9.The 1st respondent relied on **Lawrence Mungai T/A Lawrence Mungai & Co. Advocates v Regency Slots Limited [2008] eKLR** in urging the court to tax the bill instead of remitting it to a different taxing officer to save time.

10.The 1st respondent highlighted that **Mombasa High Court Succession Cause No. E081 of 2022 In the Estate of Welsa Bange Oganda**, a confirmation of grant has been held in abeyance to await the conclusion of the taxation which is the subject of the reference herein.

Analysis and Determination

Partial concession

11.The 1st respondent conceded that taxing officer should have taxed the Advocate-Client bill of costs under **Schedule 6 of the ARO** instead of relying

on the taxation which was done by the other taxing officer under the **Supreme Court Rules**.

12.The advocate urged that the subject bill of costs be taxed at Kshs. 7,450,163/-.

13.The 1st respondent proposed instruction fees (item 1) of Kshs. 2,570,000/- and getting up fees of Kshs. 856,667/- (item 18) in view of the undisputed value of the subject matter being Kshs. 150 million. The 1st respondent only opposed items 23, 24, 29, 31, 33, 50, 51, 60, 64, 69 and 72.

14.These concessions are duly recorded as such. The ruling be served upon the taxing master to guide the taxation.

Disposal

15.The advocates application dated 13.3.2025, is partially allowed, in the following terms: -

(1)The taxation ruling dated 7.3.2025 is set aside.

(2)The items conceded to by the 1st respondent be so entered in the taxation. The items opposed of the advocate-client bill of costs dated 15.1.2025 are remitted

for taxation before a different taxing officer.

(3) Because of the exigencies surrounding this bill and the need to unlock the succession proceedings, the opposed items of the bill of costs be taxed on 26.2.26.

Dated, signed and delivered at Nairobi through Microsoft Teams online application this 19th day of February, 2026

F. Gikonyo M

Judge

In the presence of: -

Ahoro for Amuga for Applicant

Muiruri for Onyango for 2nd Respondent

Osende for Ongegu for 1st Respondent

CA - Ivan/Aggrey