

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MAKUENI
ELC PETITION NO. 15 OF 2019
BETWEEN

RUFUS MULATYA MUATHE & OTHERS.....
PETITIONERS

-VERSUS-

KENYA PIPELINE COMPANY LIMITED..... 1ST
RESPONDENT

NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY
(NEMA)..... 2ND RESPONDENT

THE CABINET SECRETARY, MINISTRY OF
ENVIRONMENT..... 3RD RESPONDENT

THE CABINET SECRETARY, MINISTRY OF
HEALTH..... 4TH RESPONDENT

THE CABINET SECRETARY, MINISTRY OF ENERGY AND
PETROLEUM..... 5TH RESPONDENT

THE HON. ATTORNEY GENERAL..... 6TH RESPONDENT

RULING

1. This is a ruling in respect of a Chamber Summons dated 19th August, 2025 in which some of the Petitioners are seeking directions under Section 49 (d) of the Advocates Act.
2. Some of the Petitioners in this Petition filed an application seeking to withdraw from the petition. They also withdrew instructions from the firm of Maanzo & Co. Advocates and instructed the firm of Muriithi S. Kiragu & Co. Advocates to act for them.
3. The Applicants now contend that there is pending determination an issue as to who is representing the Petitioners. The firm of Maanzo & Co. Advocates filed an advocate/client bill of costs for taxation. The Applicants are now seeking directions as to whether that bill should be taxed before this case is concluded or not.
4. The firm of Maanzo & Co. Advocates filed a replying affidavit sworn on 23rd October, 2025 in which they oppose the Applicants' application on grounds that the affidavit has been sworn by Mr. Muriithi who purports to represent

some petitioners. The Respondent states that when the Applicants filed a notice seeking to withdraw the petition, they responded through letter dated 22nd January, 2025 in which they pointed out that they had spent money on the Applicants who were seeking to withdraw their instructions. It is on this basis that a bill of cost was filed.

5. The Respondent contends that Section 49 (d) is not couched in mandatory terms and therefore they were not under any obligation to seek directions of the court. The Respondent states that they are only seeking to recover costs which they incurred and that this court has no jurisdiction to stop the Deputy Registrar from taxing the bill of costs.
6. The Applicants filed submissions dated 18th September, 2025. The Respondent filed submissions dated 28th November, 2025. I have considered the submissions filed by the parties as well as the application and the opposition thereto. The only issue for determination is whether the bill filed by the Respondent should be allowed to be taxed before the petition is heard and determined or it should await the determination of the petition.
7. Section 49 (d) of the Advocates Act states as follows:

“At any time after the bill of costs has been filed, and before the suit has been set down for hearing, any party to the action may take out a summons for directions as to whether such bill should be taxed by the taxing officer before the suit is heard”.
8. It is clear from the submissions by both parties that they have misunderstood the import of Section 49 (d) of the Advocates Act. The Applicant argues that the bill of costs was prematurely filed without first complying with Section 49 (d) of the Advocates Act.
9. On the other hand, the Respondent argues that this court has no jurisdiction to stop a Deputy Registrar from taxing the bill. Section 49 (d) of the Advocate Act is very clear on what any party to the action may do after a bill is filed but before the suit has been set down for hearing.

10. In the instant case, this petition has not been set down for hearing. A bill of costs in respect of Advocate/Client has been filed. The Section allows any party to the action to take out a chamber summons for directions as to whether such bill should be taxed by the taxing officer before the suit is heard.
11. The Applicants have already terminated the services of Maanzo & Co. Advocates and have hired the firm of Muriithi S. Kragu & Co. Advocate. The firm of Maanzo & Co. Advocates have filed a bill to recover costs they had so far incurred in representing the Applicants who have now given instructions to another law firm. In the circumstances there is no point in waiting for the petition to be heard before the bill can be taxed. I therefore give directions that the taxing officer shall proceed to tax the bill filed by the firm of Maanzo & Co. Advocates before the petition is heard.

It is so ordered.

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HON. E. O. OBAGA

JUDGE

**RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT
TEAMS THIS 12TH DAY OF MARCH, 2026.**

IN THE PRESENCE OF:

Mr. Maanzo, Mr. Hassan and Mr. Mbulu for Petitioners.

Mr. Odongo for 3rd to 6th Respondents.

Ms. Kauria for Mr. Ngala for 2nd Respondent.

Mr. Muriithi for some petitioners.

Mr. Mugun for 1st Respondent.

Court assistants – Musyoki and Nyaanga

ORIGINAL