



VV Chokaa & Company Advocates v Essajee Amijee (EA) Limited (Miscellaneous Application E058 of 2024) [2026] KEELRC 691 (KLR) (12 March 2026) (Ruling)

Neutral citation: [2026] KEELRC 691 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS APPLICATION E058 OF 2024**

**ON MAKAU, J
MARCH 12, 2026**

BETWEEN

V CHOKAA & COMPANY ADVOCATES APPLICANT

AND

ESSAJEE AMIJEE (EA) LIMITED RESPONDENT

RULING

1. The Applicant (Advocate) filed a Chamber Summons dated 5th June 2025 under paragraph 11(2) of the Advocates (Remuneration) Order seeking the following reliefs:-
 - a. That the Court do set aside and or review the ruling by Hon. Aziza Ajwang', Deputy Registrar, made on 23rd May, 2025 in respect of the Applicants Bill of Costs dated 27th February, 2024.
 - b. That this Honourable Court do reassess and/or re-tax the said Bill of Costs or remit the same for re-taxation to another Taxing Master rather than Hon. Aziza Ajwang'.
 - c. That the costs of this application be provided for.
2. The Summons is supported by an Affidavits sworn by Dr. Vincent Chokaa Advocate on 5/5/2025 and 21st July 2025 and it is opposed by the Respondent through Replying Affidavit sworn on 26/6/2025 by its Human Resource Manager one Athman Wambua.
3. The Advocates case is that the taxing master made the impugned ruling without taxing the bill. He contended that the taxing master committed an error in principle and also errors of fact and merely arrived at a wrong decision. Therefore he prayed for the reference to be allowed as prayed.
4. The Respondent urged the court not to review or set aside the impugned Ruling contending that it was properly grounded on evidence and the law. It maintained that the Advocate had already been paid his fees amounting to Kshs. 760,000 for 12 matters it was therefore, unconscionable for him to demand another payment. It averred that the Advocate has not demonstrated any material error or miscarriage



of justice that would warrant any interference with the taxing master's decision. Finally, it averred that the Application is incompetent since it conflates two incompatible remedies i.e review and reference (appeal). Consequently, it prayed for the Application to be dismissed with costs.

5. The Summons was disposed of by written submissions. Having carefully considered the Application, affidavits and submissions, the following issues fell for determination:-
 - a. Whether the Application is fatally incompetent.
 - b. Whether the Application should be allowed as prayed.

Incompetent Application

6. The Respondent argued that the Application is incompetent because it is both for review and appeal (reference). However, I see no merits in that contention because it is clear that it is a reference brought under paragraph 11(2) of the Advocates (Remuneration) Order. It seeks for setting aside or review of the ruling of the Taxing Officer delivered on 23rd May 2025. The use of "setting aside" or "review" are mere semantics. My understanding is that they are used in the context of urging the court to interfere with, and reverse the impugned decision. Consequently, I see no fatal defect in the summons. It would have been different case if the court was moved under the Civil Procedure Rules or Employment and Labour Relations Court Procedure Rules.

Merits of the Application

7. The Applicant challenged the taxing officer's ruling on grounds that the Taxing Officer did not tax the Bill of Costs. The Respondent was of a contrary view and urged the court to spare the decision.
8. I have carefully considered the court record and the impugned ruling. It is clear that the Bill of Costs was initially taxed by Hon. Mbeja on 17th July 2024 and he awarded the Advocate Kshs. 72,450. The Client challenged the decision and by a Ruling dated 27th February 2025, Ndolo J set aside the decision and remitted the Bill of Costs for taxation by another Taxing Officer.
9. The matter that landed in the hands of Hon. Aziza who delivered her Ruling on the Bill of Costs on 23rd May 2025. In one page Ruling, Taxing Officer stated as follows:-

- (1). The Applicant filed an Advocates Client Bill of Costs dated 27th February, 2024 against the Respondent. The Bill is before me for re- taxation following a Ruling by Honourable Lady Justice L. Ndolo setting the original ruling by the Original taxing master aside and directing that the matter proceeds for re- taxation before a different taxing master.
- (2) The Respondent objects to the taxation stating that the Applicant has failed to consider sums already paid to the Applicant by the Respondent amounting to Kshs. 760,000/= in respect of 11 matters that were handled by the Respondent. The subject case is listed as one of those matters.
- (3) The Applicant has not disputed receipt of the monies even though in their submissions they argue that the Client has not clarified which payments the cases related.
- (4) In principle the Advocate was paid legal fees in respect on many matters the subject file being one of them. As receipt of fees is not disputed I find that legal fees in this matter was paid and the file cannot be a subject of taxation.



- (5) The bill of costs is thus dismissed.”
10. The question that begs for answer is, what does taxation of a Bill of Costs mean. The *Advocates Act* and the Advocates (Remuneration) Order do not define taxation of a bill of costs. Oxford English Dictionary defines taxation of costs as follows:-
- “To examine and assess the costs of a case.”
11. The Black’s Law Dictionary defines taxation of costs as follows:-
- “The process of fixing the amount of litigation related expenses that a prevailing party is entitled to be awarded.”
12. In common parlance, Taxation of a bill of costs refers to the formal court process of reviewing, assessing and fixing the final amount of legal fees and disbursements payable by one party to another or by a Client to his lawyer. It is an administrative function conducted by a Taxing officer or Registrar to ensure that costs are reasonable and proportionate.
13. It follows that when the court remitted the Bill of Costs for taxation by a Taxing Officer than Hon Mbeja, it intended that the Taxing Officer would consider and evaluate each item in the Bill of Costs to ensure that the costs charged were reasonable and proportional to the legal services rendered by the Counsel. She was expected to do so by hearing the submissions by counsel for the two sides, and where possible call for the primary file, take evidence including examining witnesses under oath where necessary. (see paragraph 13 of the Advocates (Remuneration Order).
14. Having considered the impugned ruling, I respectively find that it did resemble the process of taxation of a bill of Costs. Taxing Officer committed an error in principle as she did not do what was expected under the law, and by Ndolo J in the Ruling dated 27th February 2025. Consequently, I hereby set aside the ruling by Hon. Aziza Ajwang’ dated 23rd May 2025 and remit it for fresh taxation before any Taxing Officer of the court other than Hon. Aziza Ajwang’. The Applicant is awarded costs of the Chamber Summons dated 5th June 2025. This Ruling applies to Miscellaneous Application No. E057, E059 and E061 of 2024.

DATED, SIGNED AND DELIVERED VIRTUALLY IN OPEN COURT AT NAIROBI THIS 12TH DAY OF MARCH, 2026.

ONESMUS MAKAU

JUDGE

Appearance:

Dr. Chokaa for the Applicant

Olonde for the Respondent

