



**Suri v Kaur alias Mandeep Kaur (Commercial Case E114 of 2024)
[2026] KEHC 3104 (KLR) (Commercial and Tax) (9 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3104 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL CASE E114 OF 2024
JWW MONG'ARE, J
MARCH 9, 2026**

BETWEEN

AVTAR SINGH SURI PLAINTIFF

AND

PARMJIT KAUR ALIAS MANDEEP KAUR DEFENDANT

RULING

Introduction & Background

1. By the Chamber Summons dated 10th April 2025, the Defendant is challenging the decision of the Deputy Registrar delivered on 1st April 2025 regarding the taxation of her Party and Party Bill of Costs dated 13th November 2024. The Deputy Registrar taxed the costs at Kshs.42,226.70/= and the Defendant is not satisfied with how Items Numbers 1, 4, 6, 11, and 12 in the Bill of Costs were taxed and seeks that the same be set aside and taxed afresh. The application is supported by grounds on its face and the supporting affidavit of the Defendant's advocate, Virinder Goswami sworn on 10th April 2025. It is opposed by the Plaintiff through his replying affidavit sworn on 23rd May 2025. The parties have also supplemented their arguments by way of written submissions which I have considered together with the pleadings and I will be making relevant references to the same in my analysis and determination below.

Analysis and Determination

2. The Plaintiff assails the Reference on technical grounds that the Defendant has failed to file a Notice of Objection to the Deputy Registrar within fourteen days of the ruling, clearly identifying the items they are challenging which is in contravention of Para. 11(1) and (2) of the Advocates Remuneration Order that states:



- (1) Should any party object to the decision of the taxing officer, he may within fourteen days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.
 - (2) The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by Chamber Summons, which shall be served on all the parties concerned, setting out the grounds of his objection.
3. In her submissions, the Defendant has contended that the Ruling contained the reasons for the taxed amounts and it was unnecessary for her to lodge the Notice of Objection and as for the same reasons. I have gone through the Ruling and I agree that the same indeed contains reasons for the manner in which the Deputy Registrar taxed the items in the Bill of Costs. I note that this court has held that once the reasons are stated on the face of the Ruling then it is unnecessary to seek further reasons (see *Robert Maua t/a Mauwa & Company Associates v JRS Group Limited* [2023] KEHC 20862 (KLR) and *National Oil Corporation Limited v Real Energy Limited & Business Premises Rent Tribunal* [2016] KEHC 7679 (KLR)).
 4. Whereas I take note of the decision by Meoli J., in *Matiri Mburu & Chepkemboi Advocates v Occidental Insurance Company Limited* [2017] KEHC 1032 (KLR) cited by the Plaintiff and striking out a reference in absence of the taxing master's reasons, I find that case distinguishable from the present one because in the former, neither the court nor the parties had sight of the taxing officer's ruling that apparently contained the reasons. The court was right to point out that "To proceed with the Reference without the benefit of considered reasons for the ruling by the taxing master, the parties and indeed the court may have to engage in the unenviable and unnecessary task of guess work and speculation as to the actual reasons behind the taxation decision. That is undesirable and inimical to the administration of justice."
 5. In this case, the reasons are clearly set out in the Ruling and the parties together with the court have sight of the same. A determination on the merits of the Ruling and the Reference and the court will be able to make an informed decision as to whether or not the discretion of the Deputy Registrar was exercised on sound legal principles. Further, no prejudice will be occasioned upon the parties.
 6. Turning to the merits of the Reference, the court is being called to determine whether the Deputy Registrar erred in the taxation of the Bill of Costs. As submitted by the Plaintiff, in a reference to the court from the taxation by the Taxing Officer, the court will not normally interfere with the exercise of discretion by the taxing officer unless the taxing officer, erred in principle in assessing the costs. That where there has been an error in principle the court will interfere; but questions solely of quantum are regarded as matters with which the taxing officers are particularly fitted to deal and the court will interfere only in exceptional cases (see *Kipkorir, Titoo & Kiara Advocates v Deposit Protection Fund Board* [2005] KECA 325 (KLR)).
 7. This was reiterated in *Republic v Minister for Agriculture & 2 others Ex-parte Samuel Muchiri W'Njuguna & 6 others* [2006] KEHC 3504 (KLR) where Ojwang' J., (as he was then) held as follows:

The taxation of costs is not a mathematical exercise; it is entirely a matter of opinion based on experience. A court will not, therefore, interfere with the award of a taxing officer, particularly where he is an officer of great experience, merely because it thinks the award is somewhat too high or too low; it will only interfere if it thinks the award is so high or so low as to amount to an injustice to one party or the other.... The court cannot interfere with the taxing officer's decision on taxation unless it is shown that either the decision was based on



an error of principle, or the fee awarded was manifestly excessive as to justify an inference that it was based on an error of principle. Of course it would be an error of principle to take into account irrelevant factors or to omit to consider relevant factors.

8. Item 4 in the Bill of Costs was on Instruction Fees to which the Defendant sought Kshs.650,000.00/= but Kshs.5,000/= was allowed. The Defendant sought the instruction fee based on the decretal sum from the ELC case which was Kshs.22,078,207.00/= but the Deputy Registrar held that the instruction fee should be based on the subject matter before this court which was the application to set aside the statutory demand and that the ELC decretal sum was irrelevant to this suit and that instruction fees are charged once. She awarded Kshs.5,000/= under Schedule 6(j) (viii) of the Order which covers applications. I find no error or principle with this take as the Deputy Registrar correctly identified the proper subject matter for taxation and she relied on an appropriate authority of this court to support the principle that instruction fees are independent and charged once. It is a fundamental principle of taxation that costs are awarded for the work done in the specific suit before the court, not a previous suit. Therefore, the Deputy Registrar did not take into account an irrelevant factor, she correctly rejected it.
9. Items 6, 11, and 17 was in respect of photocopying costs and the Defendant argued she relied on Para. 74 of the Order which she claims does not require receipts but that the Deputy Registrar did not direct her to produce receipts. The Deputy Registrar taxed off these items pursuant to schedule 6(5d) of the Order because “[T]he Defendant “hasn't adduced any vouchers and/or receipts proving that the said costs were expended.” She stated that the said Para. 74 is subject to Para. 74A dealing with witness expenses and has no relationship with schedule 6(5d). I find that the Deputy Registrar applied the correct provision as schedule 6(5d) of the deals with “Photostat copies per page; actual costs, supported by vouchers of all necessary photocopying” The practice is that to claim such disbursements, a party must prove they were actually incurred, usually by way of receipts. The Deputy Registrar did not need to direct the Defendant to produce receipts as the burden of proof in a taxation lies with the party claiming the costs. Her finding that the Defendant failed to prove the expenditure is a finding of fact, not an error of principle.
10. Item 12 was Getting Up Fees where she sought Kshs.210,000.00/= but only Kshs.1,666.00/= was allowed. Impliedly, the Defendant felt entitled to getting up fees based on the full suit. The Deputy Registrar correctly noted that “Getting up fees flows directly from the instruction fees.” Since she had reduced the instruction fee to Kshs.5,000.00/=, she calculated getting up fees as one-third of that amount noting that that the suit did not proceed to full trial. This was a mathematical and logical application of the Order. If the instruction fee was correctly assessed at Kshs.5,000/=, then the getting up fees must be assessed as a percentage of that. The Deputy Registrar did not err in principle by following the formula set by the law.
11. As I have found that the Bill of Costs was rightly taxed at the point of dismissing the application seeking to set aside the statutory demand and not the ELC suit, Item 1 did not warrant consideration. The Deputy Registrar did not specifically mention Item 1 in her analysis of the “taxed off” items, meaning it was likely considered drawn to scale or the objection was not specifically upheld. In any case, there is no indication she applied a wrong principle to this item.
12. In sum, I do not find an error of principle in the Deputy Registrar’s ruling as she correctly identified the proper subject matter for taxation which was the application to set aside the statutory demand, not the ELC judgment in a previous suit, she correctly applied the evidentiary burden regarding photocopying costs, requiring vouchers/receipts where necessary and she correctly applied the formulaic relationship between instruction fees and getting up fees.



Conclusion and Disposition

13. The upshot is that the Defendant’s reference dated 10th April 2025 is dismissed with costs assessed at Kshs.15,000.00/=. It is so ordered.

DATED SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 9TH OF MARCH 2026

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J.W.W. MONGARE

JUDGE

In the presence of

1. Mr. Waigwa for the Plaintiff/Respondent.
2. Mr. Kamau holding brief for Mr. Boswami for the Defendant/Applicant.
3. Amos- Court Assistant

