



REPUBLIC OF KENYA



KENYA LAW
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**Balazs v Baya (Miscellaneous Application E009 of 2025)
[2026] KEHC 2375 (KLR) (27 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2375 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
MISCELLANEOUS APPLICATION E009 OF 2025**

M THANDE, J

FEBRUARY 27, 2026

BETWEEN

FULOP OLGA BALAZS APPLICANT

AND

EVANS TABU BAYA RESPONDENT

RULING

1. By an application dated 6.2.25, the Applicant seeks leave to lodge an objection against a taxation decision dated 18.11.24 out of time. She also seeks the review and/or setting aside of items particularly items 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 15, 16, 17, 18, 19, 20, 22, 23, 24, 26, 28, 29, 30, 31, 32, 34, 35, 37, 38, 40, 41, 43, 44, 46, 48, 49, 50, 51, 53, 54, 55, 56, 58, 59, 60, 62, 63, 64, 65, 67, 68, 69, 70, 72, 73, 74, 75, 98, 102, 103, 104, 105, 106, 107, 108, 110, 111 of the bill of costs dated 26.8.24.
2. The Applicant claims that the Respondent objected to her party and party bill of costs dated 26.8.24 for Kshs. 1,869,794.70 and in the ruling dated 18.11.24, the bill was taxed at Kshs. 115,725/=. The Applicant claims that the ruling was delivered in her absence and that of her advocates. She averred that she only became aware of the decision on 31.1.25 while making a routine check on the same. She was thus unable to comply with the provisions of Paragraph 11(1) and (2) of the *Advocates Remuneration Order (ARO)* as she was not notified of the ruling by the taxing master. The Applicant avers that the Application was filed timeously and that no prejudice will be suffered by the Respondent should the Application be allowed.
3. The Applicant listed the items, the taxing off, to which she objects. These include drawing, filing and serving of pleadings; that contrary to what the taxing master stated, the bill of costs clearly indicated the number, date and particulars of the items; that Paragraphs 5-11 of Schedule 7 of the *ARO* permit the charging of the subject items; that the decision in question was irregular and ought to be set aside for a fresh taxation of the said items.



4. The Application is opposed by the Respondent vide a replying affidavit sworn on 20.2.25 by Patrick Shujaa Wara, learned counsel for the Respondent. He averred that on 30.9.24, the court fixed the matter for mention on 14.10.24 to confirm filing of submissions. Further, that parties filed their submissions and both attended court on 14.10.24 when the ruling date on taxation was fixed for 18.11.24. It was further averred that the Applicant has not given any explanation for failure to attend court on the ruling date. Further, that after filing her submissions on 14.10.24, the Applicant went into slumber and did not follow up on the outcome of her bill of costs until 31.1.25. It was asserted that the taxing officer took into consideration all factors while taxing the bill of costs and the complaint by the Applicant is without just cause.
5. The law requires a party who wishes to object to a taxation decision to do it within 14 days of the decision. Paragraph 11 of the [Advocates Remuneration Order](#) provides as follows:
 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. Any person aggrieved by the decision of the judge upon any objection referred to such judge under subsection (2) may, with the leave of the judge but not otherwise, appeal to the Court of Appeal.
 4. The High Court shall have power in its discretion by order to enlarge the time fixed by subparagraph (1) or subparagraph (2) for the taking of any step; application for such an order may be made by chamber summons upon giving to every other interested party not less than three clear days' notice in writing or as the Court may direct, and may be so made notwithstanding that the time sought to be enlarged may have already expired.
6. Under Paragraph 11(4) of the [ARO](#) this Court is empowered to enlarge the time stipulated for filing an objection to a taxation.
7. It is trite that an order for extension of the time for the taking of any step is discretionary. It is an equitable remedy and not a right of a party. In the case of [Nicholas Kiptoo Arap Korir Salat v Independent Electoral and Boundaries Commission & 7 others](#) [2014] eKLR, the Supreme Court listed the following under-lying principles that a court should consider in the exercise of its discretion in an application for extension of time:
 1. Extension of time is not a right of a party. It is an equitable remedy that is only available to a deserving party at the discretion of the Court;
 2. A party who seeks for extension of time has the burden of laying a basis to the satisfaction of the court
 3. Whether the court should exercise the discretion to extend time, is a consideration to be made on a case to case basis;
 4. Whether there is a reasonable reason for the delay. The delay should be explained to the satisfaction of the Court;



5. Whether there will be any prejudice suffered by the respondents if the extension is granted;
 6. Whether the application has been brought without undue delay; and
 7. Whether in certain cases, like election petitions, public interest should be a consideration for extending time.
8. Flowing from the cited decision, it is evident that a party seeking extension of time to take any action appeals to the discretion of the court and must demonstrate to the court that it is deserving of the order sought. Such party must also demonstrate a reasonable reason for the delay. The court must also consider whether the application was filed without undue delay and the prejudice that may be suffered by the respondent should the orders be granted.
9. The impugned decision was made on 18.11.24. By dint of Paragraph 11(1) of the ARO, the objection ought to have been filed by 2.12.24. The present Application was filed on 6.2.25. Although there was delay, the same cannot be said to be inordinate.
10. The explanation given by the Applicant for the delay is that the ruling on taxation was delivered in the absence of the Applicant and her advocates. The Respondent stated that the ruling date was fixed in the presence of both parties. What the Applicant has not told the Court is why she and her advocates were absent on 18.11.24, the date the ruling was delivered. She has also not told the Court why she waited until 31.1.25 to check on the ruling on her own bill of costs.
11. Applying the principles set out in the Nicholas Kiptoo Arap Korir Salat case (*supra*), the Court finds that the reason given by the Applicant is not reasonable. While this court has the discretion to extend time to file an objection, that discretion must be judiciously exercised and only to a deserving party. The Applicant cannot sit on her rights and then suddenly come to court seeking extension of time to file an objection which ought to have been filed within 14 days of the decision in question, had she been vigilant. I accordingly find that the Applicant has not laid a basis for the grant of the leave sought and is thus not deserving of the exercise of the Court's discretion in her favour.
12. In light of the foregoing, the Court finds that the Application dated 6.2.25, is unmerited and the same is dismissed with costs to the Respondent.

DATED, SIGNED AND DELIVERED IN MALINDI THIS 27TH DAY OF FEBRUARY, 2026.

M. THANDE

JUDGE

