



REPUBLIC OF KENYA



**KENYA LAW**  
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**Ramji & 2 others v Mombasa Cement & another (Environment and Land  
Case 365 of 2010) [2026] KEELC 1527 (KLR) (17 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1527 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE 365 OF 2010  
CG MBOGO, J  
MARCH 17, 2026**

**BETWEEN**

**HARISH RAMJI ..... 1<sup>ST</sup> PLAINTIFF  
BHARAT RAMJI ..... 2<sup>ND</sup> PLAINTIFF  
ASHVIN RAMJI ..... 3<sup>RD</sup> PLAINTIFF**

**AND**

**MOMBASA CEMENT ..... 1<sup>ST</sup> DEFENDANT  
NATIONAL SOCIAL SECURITY FUND ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. The 2<sup>nd</sup> defendant/applicant filed the chamber summons dated 8<sup>th</sup> July, 2025 expressed to be brought under Article 159 (2)(d) of *the Constitution*, Section 1A,1B and 3A of the *Civil Procedure Act* and Paragraph 11(1), (2) and (4) of the Advocates Remuneration Order seeking the following orders:-
  1. That the honorable court be pleased to enlarge time within which the 2<sup>nd</sup> defendant/applicant can file a taxation reference against the ruling of the taxing officer delivered on 5<sup>th</sup> June, 2025.
  2. That consequent to grant of order I above, this application be deemed to be duly filed and properly before the court.
  3. That the ruling of the taxing officer delivered on 5<sup>th</sup> June, 2025 in so far as the same relates to the reasoning and determination pertaining to the plaintiffs' party and party bill of costs dated 23<sup>rd</sup> April, 2024 be set aside.
  4. That the honourable court be pleased to refer the matter back for re-taxation of the plaintiffs' party and party bill of costs dated 23<sup>rd</sup> April, 2024 before another taxing officer with proper and appropriate directions thereon.



5. That in the alternative to prayer 4 above, the honorable court be pleased to re-tax the plaintiffs' party and party bill of costs dated 23<sup>rd</sup> April, 2024.
6. That the costs of this application be borne by the plaintiffs.
2. The application is premised on the grounds on its face. It is further supported by the affidavit of Kellen Njue, the General Manager, Corporation Secretary and Legal services of the 2<sup>nd</sup> defendant/applicant. The 2<sup>nd</sup> defendant/applicant deposed that vide the ruling of Hon. Vincent Kiplagat delivered on 5<sup>th</sup> June, 2025 the bill of costs was taxed at an excessive figure of Kshs.3,148,626.66/=. Being aggrieved by the said ruling, and pursuant to Paragraph 11(1) of the Advocates Remuneration Order, the 2<sup>nd</sup> defendant/applicant filed and served its letter requesting reasons for the taxation and notice of objection both dated 13<sup>th</sup> June, 2025.
3. The 2<sup>nd</sup> defendant/applicant further deposed as informed by their advocates on record, although it appears that the ruling was uploaded on the CTS platform on 5<sup>th</sup> June, 2025 the same could not open, and therefore they had no access to the same to assess the need of filing a reference. Therefore, the delay in filing the reference was occasioned by the delay in obtaining the ruling and reasons for taxation which was beyond their control. It was deposed that the court has unfettered discretion under Paragraph 11(4) to enlarge the time for filing a reference and deposed that no prejudice will be suffered by the plaintiffs/respondents if the time for filing the reference is extended.
4. Further, that their reason to file a reference is that the taxing officer misdirected himself and committed an error of principle by finding that the value of the subject matter was not ascertainable from the pleadings, while the suit property was transferred to the plaintiffs at a consideration of Kshs.6,391,365.00/=:, which transfer document was part of the plaintiffs/ respondents trial bundle. It was deposed that this should have formed the value of the subject matter for the instruction fees for instituting the plaintiffs/respondents' suit and defending the 1<sup>st</sup> defendant's counterclaim as per Paragraph I (b) of Schedule 6A of the 2009 Remuneration Order, which would not have caused the taxing master to arrive at the impugned excessive figure.
5. The application was opposed vide the replying affidavit of Wanja Wanjuki, the learned counsel on record for the plaintiffs/respondents sworn on 28<sup>th</sup> January, 2026. The learned counsel deposed that no reasonable explanation has been provided to justify this court's exercise of discretion in their favour as the delay in lodging the reference has not been adequately explained. Further, the application clearly aims to further delay the dispute and should be dismissed.
6. The learned counsel further deposed that a copy of the ruling including the reasoning, was uploaded and made accessible to the parties on the Case Tracking System (CTS) on 5<sup>th</sup> June, 2025 immediately after delivery of the decision. Further, the 2<sup>nd</sup> defendant/applicant would have notified the court of the issue and attempted to follow up with the registry to resolve the technical problem preventing access to the ruling from their side. No such attempt was made, and no evidence of any communication with the court has been presented.
7. That contrary to the 2<sup>nd</sup> defendant/applicant's assertions, the plaintiffs/applicants would be significantly prejudiced if the time for filing the reference is extended, especially considering that the entire dispute emerged from the 2<sup>nd</sup> defendant's/applicant conduct and has taken over 16 years to resolve. Further, the mere dissatisfaction with the fee awarded neither indicates an error of principle nor justifies overturning the taxing master's decision.
8. The learned counsel deposed that the taxing master properly and correctly evaluated the pleadings filed by the parties, the judgments of this court and court of appeal, as well as the applicable principles. She



noted that during the pendency of the injunctive orders, several developments took place in the area and to the suit property itself, thereby increasing the value of the surrounding properties. Further, the suit property was also developed, resulting in a rise in its value, and that the same had a market value of Kshs.300,800,000/- at the time of filing the suit.

9. The chamber summons was canvassed through written submissions. The 2<sup>nd</sup> defendant/applicant filed its written submissions dated 23<sup>rd</sup> February, 2026. The plaintiffs/respondents filed their written submissions dated 30<sup>th</sup> April, 2025 (sic).
10. I have considered the application, the reply thereof, and the written submissions filed by the respective parties. The issue for determination is whether the application has merit.
11. The 2<sup>nd</sup> defendant/applicant herein urged the court to exercise its discretion to enlarge the time within which to file their reference against the taxing master's ruling on the plaintiffs' party and party bill of costs that was delivered on 5<sup>th</sup> of June, 2025.
12. Paragraph 11(1) of the Advocates (Remuneration) Order provides that:

“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.”
13. The 2<sup>nd</sup> defendant/applicant relied on the court's power to enlarge the 14 days within which to notify the taxing officer contained in paragraph 11(4) which provides that:-

“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.”
14. The learned counsel for the 2<sup>nd</sup> defendant/ applicant also relied on the authority in the case of Peter Julius Njoroge v Fidelity Commercial Bank Limited & another [2018] KEHC 6374 (KLR) in which the court held that:

“By dint of the provisions of subparagraph (4), the high court is empowered to enlarge the time fixed by subparagraphs (1) and/or (2). The rule on enlargement of time expressly pronounces that the power is discretionary. As always, judicial discretion ought to be exercised judiciously. Discretion will be exercised in favour of an applicant if the delay is not inordinate, is excusable and where enlargement of time is not detrimental to the rights by the respondent.”
15. As expressed by the court in the authority above, extension of time is a discretionary power, meaning the court will examine the merit of the same on a case by case basis. The Supreme Court in the case of Nicholas Kiptoo Arap Korir Salat v. IEBC and 7 Others, Sup Ct. Application 16 of 2014 cited and relied upon by both parties established the principles to be applied in exercising the discretionary power to extend time:-

“Extension of time being a creature of equity, one can only enjoy it if [one] acts equitably: he who seeks equity must do equity. Hence, one has to lay a basis that [one] was not at fault so as to let time lapse. Extension of time is not a right of a litigant against a court, but a



discretionary power of the courts which litigants have to lay a basis [for] where they seek [grant of it. . . This being the first case in which this court is called upon to consider the principles for extension of time, we derive the following as the underlying principles that a court should consider in the exercise of such discretion:-

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 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. where there is [good] 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, the public interest should be a consideration for extending time.”
16. In the present case, the impugned ruling was delivered by the taxing master on 5<sup>th</sup> of June, 2025. This application is dated 8<sup>th</sup> July, 2025 which is a month later. In my view, the delay is not lengthy. The reason advanced by the 2<sup>nd</sup> defendant/ applicant that they were unable to access the same from the CTS system are in my view excusable.
17. It is evident from the system that the ruling was posted on the same day of delivery. The only reason that could have caused the 2<sup>nd</sup> defendant/applicant to be unable to access the same is maybe a shortage of adequate network to download the same. I agree with the plaintiffs/respondents that if the 2<sup>nd</sup> defendant/applicant was indeed unable to access the same, they should have contacted the registry to be assisted, and they have not shown any evidence of them having sought such assistance.
18. However, given that the delay was not inordinate and the 2<sup>nd</sup> defendant/applicant is aggrieved with the ruling of the taxing master, I exercise my discretion and allow the application dated 8<sup>th</sup> July, 2025 in the following terms:-
- i. The 2<sup>nd</sup> defendant/applicant is granted leave to file the reference out of time.
  - ii. The said reference to be filed and served within 14 days from the date of this ruling.
  - iii. There shall be stay of execution of the taxing master’s ruling dated 5<sup>th</sup> June, 2025 pending the hearing and determination of the reference.
  - iv. The costs of this application shall abide the outcome of the reference.

It is so ordered.

**DATED, SIGNED & DELIVERED VIRTUALLY**

**THIS 17<sup>TH</sup> DAY OF MARCH, 2026.**

**HON. MBOGO C.G.**



**JUDGE**

17/03/2026.

In the presence of:

Ms. Benson Agunga - Court assistant

Ms. Wanja Wanjiku for the Plaintiff

Mr. Muuo for the 2<sup>nd</sup> Defendant/Applicant

