



Onindo Onindo & Associates v Church Commissioners of Kenya (Environment and Land Case E062 of 2025) [2026] KEELC 1845 (KLR) (24 March 2026) (Ruling)

Neutral citation: [2026] KEELC 1845 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E062 OF 2025**

TW MURIGI, J

MARCH 24, 2026

BETWEEN

ONINDO ONINDO & ASSOCIATES ADVOCATE

AND

THE CHURCH COMMISSIONERS OF KENYA CLIENT

RULING

1. By a Chamber Summons dated 9th February 2025, brought under Rule 11 (2) of the Advocates Remuneration Order 2014, the Client/Applicant seeks the following orders:
 - a) Spent.
 - b) That pending hearing and determination of this application inter partes, there be a stay of proceedings in Milimani ELC Misc No. E046 of 2025 Onindo & Onindo & Associates v The Church Commissioners of Kenya and, in particular, the Advocates' application dated 29th January 2025 seeking to convert the impugned Certificate of Costs dated 28th January 2026 into a Decree.
 - c) That the decision by the learned Deputy Registrar (Hon Vincent Kiplagat) dated 27th January 2026, published on the CTS filing platform on 28th January 2026 at 13:35:50, be set aside and the Advocate – Client Bill of Costs dated 20th March 2025 be taxed afresh before any other Deputy Registrar other than Hon Vincent Kiplagat.
 - d) That the costs of this application be provided for.
2. The Applicant/Advocate filed a Notice of Preliminary Objection dated 17th February 2025, raising the following grounds:
 - a. That the application dated 9th February 2026, as drawn, is a non-starter.



- b. That the Court lacks jurisdiction to hear and the orders sought therein.
 - c. That the application as drawn is not a reference as envisaged in paragraph 11 of the Advocates Remuneration Order.
3. The preliminary objection was canvassed by way of written submissions.

The Advocates' Submissions.

4. The Advocate filed its submissions dated 26th February 2026.
5. On behalf of the Advocate, Counsel submitted that the Client's application is defective and a non-starter because it does not qualify as a reference under paragraph 11 of the Advocates' Remuneration Order. To support this argument, Counsel relied on *Aoro v Were* (Misc Reference Application No.E019 of 2022) (2022) KEHC 14628 (KLR), where the Court held that issues arising from a bill of costs should be addressed through a reference to a judge.
6. Counsel argued that a reference is in the nature of an appeal and should be filed separately. It was contended that the application is fatally defective, as it was filed within the same miscellaneous cause as the taxation proceedings.

The Respondent's Submissions

7. The Respondent filed its submissions dated 1st March 2026.
8. On its behalf, Counsel submitted that the only issue for determination is whether the Court has jurisdiction to hear and determine the application.
9. Counsel submitted that the objection is based on a misapprehension of Paragraph 11 of the Advocates' Remuneration Order. Counsel further submitted that there is no legal requirement to file a separate Miscellaneous cause to challenge a taxing master's decision. To support this point, Counsel cited Paragraphs 11(1) and (2) of the Advocates Remuneration Order. Further reliance was placed on *Governors Ballon Safaris Limited v Skyship Company Limited & another* (2015) KEHC 6750 (KLR), where the Court determined a reference filed in the same suit after costs had been taxed.
10. Counsel maintained that the reference is competent and should be heard on its merits. Counsel further submitted that once paragraph 11 of the Advocates' Remuneration Order grants a judge jurisdiction to hear an objection to a taxing master's decision, upon application in chambers, whether such objection is filed in a separate miscellaneous cause cannot divest the judge of jurisdiction.
11. Counsel maintained that the reference is properly before the Court.
12. In conclusion, Counsel urged the Court to dismiss the preliminary objection with costs.

Analysis And Determination

13. Having considered the preliminary objection and the rival submissions, the issue for determination is whether the application is incompetent for having been filed within the same miscellaneous cause as the taxation proceedings.
14. The law governing references from decisions of taxing officers is outlined in paragraph 11 of the Advocates' Remuneration Order. The provision specifies the procedure a party must follow to object to a Taxing Officer's decision, including issuing a notice, receiving reasons, and submitting a reference before a judge.



15. Paragraph 11 does not specify the format for making such a reference, nor does it require it to be filed as a separate miscellaneous cause. What matters is that the reference is based on a valid notice of objection and clearly disputes specific items or the taxation.
16. The argument by the Advocate that a reference must be filed separately is not supported by the provisions of the law. Although a reference is in the nature of an appeal against the decision of a taxing officer, it is a sui generis process and is strictly governed by the procedure outlined in the Advocates Remuneration Order.
17. In light of the foregoing, I find that the preliminary objection is without merit and is hereby dismissed. Costs in the cause.

RULING SIGNED, DATED, AND DELIVERED VIA MICROSOFT TEAMS THIS 24TH DAY OF MARCH, 2026.

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HON. T. MURIGI

JUDGE

In The Presence Of:

Okoth for the Client

Onindo for the Advocate

Vena – Court Assistant

