

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MALINDI
MISCELLANEOUS APPLICATION NO. E094 of 2024

C. B. GOR & GOR ADVOCATES
.....**APPLICANT**

VERSUS

CANNON GENERAL INSURANCE (K) LIMITED.....
RESPONDENT

RULING

1. By an application dated 17.10.24, the Applicant seeks the following orders:
 1. ***THAT this Reference against the decision of Honourable Nancy Makau Deputy Registrar made on 15th October, 2024 be and is hereby allowed.***
 2. ***THAT this Honourable Court be pleased to set aside/vary the Ruling of the Honourable Taxing Officer delivered on 15th October, 2024 in respect to ITEM 17 taxed at a sum of Kenya Shillings Fourteen Thousand (Kshs.14, 000.00).***
 3. ***THAT this Honourable Court be pleased to make a determination in respect to ITEM 17 as pleaded in the Bill of Costs dated 29th July, 2024.***
 4. ***THAT the costs of this application be in the cause.***
2. The grounds upon which the Application is premised are that the Taxing Officer erred in principle in finding that the costs in respect to the preparation and drawing of the record of appeal emanates from copies and therefore erroneously computed the costs payable as (112x25x5) and taxed item 17 at Kshs.14,000.00; that the Taxing Officer erred in principle, fact and law in respect to item 17 by misdirecting herself to the provisions of Schedule 6 Clause 4 and thereby making an erroneous decision; that the Taxing Officer erred in law by failing to consider or properly consider the complexity of the nature of work of the Advocate engaged in the drawing and collating the record of appeal pursuant to the High Court (Organization and Administration) Act, 2015 as read with the Practice Directions to Standardize Practice and Procedures in the High Court 2021.
3. The Applicant further stated that the Taxing Officer erred in law and in fact by failing to appreciate that the Advocate/Applicant had a very complex, difficult and challenging brief from the Client requiring a lot of researching, preparation, compiling, filing and generally handling the entire Appeal on behalf of their Client therein; that Taxing Officer erred in principle, fact and law in respect to item 17 by taxing off a sum of Kshs. 619, 000.00 lawfully

payable in regard to the drawing of the record of appeal as pleaded in the Bill of Costs dated 29.7.24.

4. The Respondent opposed the Application by a replying affidavit sworn on 30.10.24 by Leonorah Shigoli, the Respondent's advocate. It was averred that item 17 of the bill of costs pertains to the drawing of the record of appeal comprising of 112 pages; that the assertion that the Appellant drew 112 pages is inaccurate and misleading to the Court when in fact the Applicant only prepared two pages of the record with remainder consisting of copies of pleadings previously filed in the lower court; that the learned taxing master correctly noted that the record of appeal consisted primarily of copies and appropriately awarded the sum of Kshs 14,000/=, calculated as 112 pages at Kshs 25 per page, in accordance with schedule 6(5) (a) of the Remuneration Order, 2014; that the court rightly applied the rate of Kshs. 25/= per copy in taxing item 17 of the aforementioned bill of costs; that there was no complexity, neither was there legal research required and involved in making copies of the record of appeal. The Respondent urged that the Application be dismissed with costs.
5. It is not disputed that item 17 of the Bill of costs relates to the record of appeal. In her ruling, the taxing officer stated as follows:

Record of appeals are copies as such (112x25x5) taxed at kshs. 14,000/.
6. Paragraph 5 of Schedule 6 of the Advocates Remuneration order makes provision for copies. Subparagraph (a) provides the amount of Kshs 25 per folio for copies of a plaint, written statement of defense, affidavit, petition of appeal, cross objection to petition, interrogatories, replies to interrogatories, agreement in satisfaction of suit, or for reference to arbitration, exhibit bill of costs and every other document (whether for court or opposing party). Subparagraph (b) provides the same amount for the actual cost of copies of judge's notes taken from day to day as a case proceeds if certified by the trial court, while subparagraph (e) provides the same amount for all other necessary copies.
7. It is noted that the Applicant did not file a further affidavit in rebuttal of the Respondent's assertion that the taxing master was right in finding that the record of appeal comprised mainly of photocopies and that the award of the sum of Kshs. 14,000/= was correct. The same remains uncontroverted. The Court also takes judicial notice of the fact that a record of appeal largely consists of photocopies.
8. In the premises, I find that the taxing officer applied the correct principle in assessing the costs in item 17 of the bill of costs and there is no basis for interfering with her decision. On

this point I am duly guided by the Court of Appeal which in the case of **Kipkorir, Titoo & Kiara Advocates v Deposit Protection Fund Board [2005] KECA 325 (KLR)** stated:

On a reference to a judge from the taxation by the Taxing Officer, the judge will not normally interfere with the exercise of discretion by the taxing officer unless the taxing officer, erred in principle in assessing the costs. In Arthur v Nyeri Electricity Undertaking [1961] EA 497, the predecessor of this Court said at page 492 paragraph I:

“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”.

9. In the end the Application dated 17.10.24 lacks merit and the same is dismissed with costs to the Respondent.

DATED, SIGNED and DELIVERED in MALINDI this 17th day of April 2026

M. THANDE
JUDGE