



**Guchu (Suing as the Administrator of the Estate of Stephen Guchu
Churu (Deceased) v Kamande & 3 others (Environment and Land
Appeal 20 of 2020) [2026] KEELC 2452 (KLR) (29 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2452 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND APPEAL 20 OF 2020**

**JM ONYANGO, J
APRIL 29, 2026**

BETWEEN

**RUTH WANJIRU GUCHU (SUING AS THE ADMINISTRATOR OF THE
ESTATE OF STEPHEN GUCHU CHURU (DECEASED)) APPELLANT**

AND

TERESIA WANJIKU KAMANDE 1ST RESPONDENT

STANLEY MUNYAMBU KINYANJUI 2ND RESPONDENT

LAND REGISTRAR – RUIRU 3RD RESPONDENT

ATTORNEY GENERAL 4TH RESPONDENT

RULING

Introduction

1. This ruling concerns a reference brought under Rule 11(2) of the Advocates (Remuneration) Order challenging the decision of the Honourable J. H. S. Wanyanga delivered on 20th March 2025.
2. By a Chamber Summons dated 3rd April 2025 the Applicant seeks to impugn the said decision on various grounds set out on the face of the application which seeks the following Orders:
 1. That the Honourable Court be pleased to set aside and/or vary the ruling of the honourable Taxing Master on the 1st Respondent Party & Party Bill of Costs delivered on 20th March 2025.
 2. That the decision of the learned Taxing Master with respect to Item 1: Instruction fees and Item 24: getting up Fees to prepare for the Appeal be taxed afresh by this Honourable Court.
 3. That the costs of this Application be provided.



3. The application is premised on the grounds on the face of it and supported by the affidavit of Teresiah Wanjiku Kamade sworn on even date.
4. The Applicant's case is that the learned taxing master fell into error, both in law and in fact, in the application of the principles governing the taxation of a Party and Party Bill of Costs arising from an appeal. In particular, the Applicant faults the assessment of instruction fees, contending that the taxing master failed to give due and proper consideration to the provisions of Schedule 6 (1) (b) of the Advocates (Remuneration) (Amendment) Order, 2014.
5. Additionally, it is the Applicant's position that the taxing master misdirected himself in the interpretation and application of the relevant provisions of Schedule 6, as well as the broader framework of the Advocates Remuneration Order governing the taxation of bills of costs. In that regard, the Applicant asserts that the taxing master failed to take into account material factors, including the nature and importance of the cause, the interests of the parties, and the value of the subject matter.
6. On the strength of those complaints, the Applicant contends that the sum allowed, particularly under the head of instruction fees, was so inordinately low as to occasion injustice. The Court is therefore invited to interfere with, and vary, the assessment made by the learned Deputy Registrar.
7. The application is opposed by the Respondent through the replying affidavit of Ruth Wanjiru Guchu sworn on 17th July 2025.
8. The Respondent maintains that the taxation was proper, the discretion of the taxing officer was judiciously exercised, and that no sufficient basis has been laid to warrant interference by this Court.
9. The application was canvassed by way of written submissions.
10. Having considered the application, the affidavit in support, the replying affidavit in opposition, the rival submissions and the relevant authorities, the key issue that emerges for determination is: Whether the Applicant has established grounds sufficient to warrant this Court's interference with the decision of the taxing master.

Analysis and Determination

11. It is a settled principle, long etched in the jurisprudence of this Court, that taxation of costs is an exercise of discretion entrusted to the taxing officer, and not a matter for casual or routine interference. The Court, when invited to review such an exercise under Paragraph 11 of the Advocates Remuneration Order, does not embark upon a fresh taxation. It acts, rather, with circumspection, intervening only where it is demonstrated that the discretion was not judicially exercised.
12. Rule 11 of the Advocates Remuneration Order, which governs objections to taxation and the procedure for reference to a Judge, provides as follows:

“ 11. Objection to decision on taxation and appeal to Court of Appeal

- (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."

13. The import of the foregoing provision is clear. A reference to a Judge is not an invitation to re-tax the bill, but a circumscribed jurisdiction to interrogate the process and outcome of taxation for error of principle.
14. The taxing officer is the primary arbiter of quantum, and his discretion is not to be lightly displaced. It is only where it is shown that the discretion was improperly exercised, or that the resulting award is so unreasonable as to betray an error in principle, that the Court is entitled to intervene.
15. The principles governing interference with taxation have been stated and restated in a long line of authorities.
16. In *Famy Care Limited v Public Procurement Administrative Review Board & another & 4 others* [2013] eKLR, Majanja J (as he then was) cited with approval the principles of taxation set out in *Premchand Raichand Ltd v Quarry Services of East Africa Ltd* (No. 3) [1972]EA 162 as follows:
 - "(a) That costs should not be allowed to rise to a level as to confine access to justice as to the wealthy, (b) that a successful litigant ought to be fairly reimbursed for the cost he has had to incur, (c) that the general level of remuneration of Advocates must be such as to attract recruits to the profession, and (d) so far as practicable there should be consistency in the award made, and (e) the court will only interfere when the award of the taxing officer is so high or so low as to amount to an injustice to one party."
17. These principles remain the lodestar in the exercise of taxation discretion and equally define the narrow circumstances under which this Court may properly intervene.
18. In *Joreth Limited v Kigano and Associates* [2002] EA 92, the Court elaborated the considerations relevant to the assessment of instruction fees, emphasising that such assessment is not arithmetical but evaluative. The Court identified, inter alia, the nature and importance of the cause, its complexity, the responsibility undertaken by counsel, the time reasonably expended, and the general conduct of the proceedings as material factors informing a proper exercise of discretion.
19. I have carefully examined the record, the impugned ruling of the taxing master dated 20th March 2025, and the manner in which the question of the value of the subject matter was approached.
20. What emerges is that the value was variously placed at Kshs. 20,000,000/- in the pleadings, while in the course of proceedings there was reference to a figure of Kshs. 15,000,000/-. In neither instance,



however, was any valuation report or other documentary material placed before the taxing officer to substantiate or reconcile the asserted figures.

21. Against that backdrop, the taxing master proceeded on the basis that the amount involved could not be quantified, and therefore declined to anchor instruction fees on a specific value of the subject matter. That approach, in my view, accords with principle. Where value is not ascertainable from credible material on record, the taxing officer is enjoined to resort to a discretionary assessment guided by the factors set out in *Joreth Limited v Kigano and Associates* (supra).
22. It follows that the contention that the taxing master failed to consider the value of the subject matter cannot be sustained as a misdirection in principle.
23. The taxing master was entitled, on the material before him, to find that the value was not established in a manner capable of guiding quantification, and to proceed accordingly. I therefore find no basis for interference with the award on instruction fees.
24. As regards Item 24 on getting up fees, the taxing master awarded the same at one-third of the instruction fee. That approach is in accordance with the established principle that getting up fees ordinarily follow instruction fees as a proportion thereof, and is not shown to have been founded on any error of principle. Having upheld the taxation of instruction fees, I find no basis for interference with the consequent award on getting up fees.
25. Accordingly, the Applicant has failed to demonstrate any error of principle in the taxation warranting the intervention of this Court.
26. The upshot is that the application dated 3rd April 2025 is devoid of merit and is hereby dismissed with costs.

DATED, SIGNED AND DELIVERED VIRTUALLY, AT THIKA THIS 29TH DAY OF APRIL 2026

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J. M. ONYANGO

JUDGE

In the presence of:

Mr Mugambi for the Applicant/ Respondent

Mr. Nganga for the Appellant

Court Assistant: Hinga

