



Kenya Agricultural Research Institute v Sila t/a Legacy Auctioneers Limited (Miscellaneous Application E063 of 2024) [2026] KEELRC 1177 (KLR) (30 April 2026) (Ruling)

Neutral citation: [2026] KEELRC 1177 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
MISCELLANEOUS APPLICATION E063 OF 2024**

J RIKA, J

APRIL 30, 2026

BETWEEN

KENYA AGRICULTURAL RESEARCH INSTITUTE APPELLANT

AND

BENJAMIN K SILA T/A LEGACY AUCTIONEERS LIMITED RESPONDENT

RULING

1. Through its application dated 19th November 2025, the Appellant seeks an order, that: -

Pending hearing and determination of the appeal, there be a stay of execution of the ruling of Hon. Christine Menya dated 13th November 2025, and all consequential orders.
2. The appeal, which is made pursuant to Rule 55 [4] and [5] for the Auctioneers Rules, by way of a chambers summons, seeks orders that: -
 - a. The Taxing Officer's [Menya's] decision dated 13th November 2025 be partially set aside, as more specifically sought in the memorandum of appeal/ chamber summons herein.
 - b. Upon grant of the prayers herein, the Respondent's bill of costs dated 10th January 2023 in relation to the impugned items be taxed by this Honourable Court.
3. An order of interim stay, was granted on 21st November 2025.
4. The application is founded on the affidavit of Patricia Ngutu, Appellant's Corporation Secretary, sworn on 19th November 2025.
5. The Appellant raises multiple grounds of appeal.
6. Patricia explains that the original bill of costs was taxed at Kshs. 1,053,559 by Taxing Officer Hon. Kibellion, on 26th February 2025.



7. Parties filed a consent order, setting aside the ruling of Hon. Kibellion, on 19th March 2025
8. The bill was taxed afresh by Hon. Menya at Kshs. 473,777, on 13th November 2025.
9. This re-taxation ruling, is the subject matter of the appeal and application filed by the Appellant.
10. The multiple grounds of appeal include: the Taxing Officer erred in allowing item 3, which is not provided for under the Auctioneers Rules; she erred in allowing the Respondent to supply receipts in support of item 3, after her ruling; she erred in allowing item 4 based on decretal sum instead of work done; she erred by increasing the claim under item 4; she erred by imposing a commission of 5% of the decretal sum instead of 2%; she erred in failing to tax off certain items in respect of second warrants of attachment; and that she erred in failing to find that no lawful Auctioneer's charges can be sustained arising from the 4th warrants of attachment and sale.
11. This is just a small fraction of the grounds of appeal.
12. The Respondent is opposed to the appeal/ application. He filed grounds of opposition and preliminary objection, dated 13th February 2026.
13. His position is that the Court is barred from considering and determining several grounds of appeal, by virtue of Sections 6 and 34 of the *Civil Procedure Act*.
14. He submits that grounds 12-16 relate to warrants dated 8th September 2020. The grounds relate to satisfaction of decree in the primary Nakuru H.C.C.A No. 35 of 2015.
15. Grounds 22-25 relate to warrants of attachment in Nakuru H.C. Petition No. 2 of 2013, dated 26th July 2022.
16. In Nakuru H.C. Miscellaneous Application No. 1 of 2023, the Appellant seeks refund of Kshs. 283,243 from the warrants dated 26th July 2022.
17. The Respondent submits that he was entitled to commission as awarded. Once proclamation is done, the attachment is complete, and commission accrues. The Respondent however concedes, at paragraph 11 of his submissions, that the Taxing Officer erred, by adopting 5% on commission, instead of 2%.
18. It is submitted further that the warrant dated 20th January 2020 arose from fresh warrants, not reissue of the 1st warrants.
19. On warrants dated 8th December 2020, the Respondent states that service of proclamation at Kshs. 8,000 was reasonable. Handling fee of Kshs. 1,000 is not provided for, and the Respondent concedes that the Taxing Officer was in error.
20. Under the warrants dated 26th July 2022, the Respondent reiterates that the grounds relate to warrants dated 26th July 2022 subject matter of Nakuru H.C Petition No. 2 of 2013 and Nakuru H.C Miscellaneous Application No. 1 of 2023.
21. Parties agreed to have the appeal/ application considered and determined on the strength of their affidavits and submissions. They informed the Court on 10th February 2026, that they were engaging on the grounds of appeal and intended to have the multiple grounds reduced to a reasonable number.
22. The appeal/ application was last mentioned before the Court on 11th March 2026, when the Parties confirmed filing and exchange of their submissions, and also informed the Court that their engagement, had not yielded any reduction in the multiple grounds of appeal.



The Court Finds: -

23. There is repeated reference to actions involving the Parties at the High Court in Nakuru. Reference is made to H.C.C.A No. 315 of 2015, H.C.C.A No. 35 of 2015, H.C. Petition No. 2 of 2013, and H.C. Miscellaneous Application No. 1 of 2023.
24. It is submitted that some of the items placed before the Taxing Officer, arose from those proceedings in the High Court.
25. The Respondent concedes at paragraph 11 of his submissions, that the Taxing Officer erred in applying 5% commission. In the same paragraph, it is conceded that that Taxing Officer erred by awarding Kshs. 1,000 in handling fee. At paragraph 13, a similar concession on handling fee is made by the Respondent.
26. From the submissions made by the Parties, it is not clear whether the bill of costs subject matter of the appeal/ application, was confined to employment and labour relations jurisdiction.
27. There has been constant swaying to and from the E&LRC and the High Court by the Parties, which has muddied execution/ taxation.
28. The Parties ought to have argued the issue of jurisdiction before the taxing officer, clearly drawing the lines on costs incurred by the Respondent in execution of E&LRC decree, from costs incurred in execution of High Court decree.
29. It is hard to understand why for instance, the Appellant filed Nakuru H.C. Miscellaneous Application No. 1 of 2015, asking the High Court to among others, order that, “ upon determination of the Applicant’s application on Nakuru E&LRC No. 2 of 2013, this Honourable Court, be pleased to order the Auctioneer to release Respondent’s motor vehicles registration numbers KAN 414 U and KBQ 444D forthwith.”
30. Why should the matter be litigated in different jurisdictions?
31. The Court cannot re-tax the bill of costs as proposed by the Appellant, in light of these questions on jurisdiction. There ought to be a clear E&LRC decree, at the root of the bill of costs, and proceedings from other jurisdictions, ought not to feature at all in the bill of costs placed before the E&LRC jurisdiction.
32. Based on the question of jurisdiction and concessions made by the Respondent, the appeal is allowed.

It Is Ordered: -

- a. Appeal / application dated 19th November 2026 is allowed.
- b. Ruling of the Taxing Officer Hon. Christine Menya, dated 13th November 2026 is set aside.
- c. The bill of costs, clearly based on a decree of the E&LRC, be taxed afresh before a different Taxing Officer.
- d. No order on the costs.
- e. The appeal/ application shall be marked as closed.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, UNDER RULE 68[5] OF THE E&LRC [PROCEDURE] RULES, 2024, THIS 30TH DAY OF APRIL 2026.

JAMES RIKA

JUDGE

