



**Orego & Odhiambo t/a Orego & Odhiambo Advocates v Tenglon Construction Limited  
(Miscellaneous Application E277 of 2024) [2026] KEELRC 1140 (KLR) (30 April 2026) (Ruling)**

Neutral citation: [2026] KEELRC 1140 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E277 OF 2024**

**BOM MANANI, J**

**APRIL 30, 2026**

**BETWEEN**

**FREDRICK OREGO & COLLINS ODHIAMBO T/A OREGO & ODHIAMBO  
ADVOCATES ..... ADVOCATE**

**AND**

**TENGLON CONSTRUCTION LIMITED ..... RESPONDENT**

**RULING**

**Background**

1. The Advocate filed the Advocate – Client Bill of Costs dated 18<sup>th</sup> September 2024 against the Applicant (hereafter referred to as the Client) which was taxed on 24<sup>th</sup> October 2024 at Ksh. 337,500.32. Accordingly, the Taxing Master issued a Certificate of Taxation dated 13<sup>th</sup> November 2024.
2. The Client filed the application dated 5<sup>th</sup> November 2024 through which it seeks the following orders:-
  - a. Spent.
  - b. Spent.
  - c. That it (the Client) be allowed to pay the Advocate the amount they agreed on through their communication.
  - d. That it (the Client) be allowed to pay the agreed amount by instalments until payment in full.
  - e. That costs of the application be in the cause.
3. The application is expressed to be brought under sections 1A, 1B, 3A and 63 (e) of the [Civil Procedure Act](#) and Orders 42 rule 6 (1) and 51 rule 1 of the Civil Procedure Rules. It is supported by the grounds appearing on the face thereof and on the affidavit of David Sheng.



4. The Client contends that the parties had agreed on legal fees on matters which the Advocate was to handle for it as follows:-
  - a. Employment suits Ksh. 50,000.00.
  - b. Review of CBAs Ksh. 30,000.00.
  - c. Review of short term contracts Ksh. 10,000.00.
5. The Client contends that it is willing to settle the Advocate's legal fees based on the aforesaid terms. It avers that the delay in paying the fees was not intentional.
6. The Client avers that it did not oppose taxation of the Advocate's Bill of Costs because its officers were out of the country. It contends that it is not in a position to pay the fees at once. It further alleges that it cannot afford the taxed sum of Ksh. 337,500.32.
7. The Advocate has opposed the application. He denies that the parties had a retainer agreement under which fees had been agreed as alleged by the Client.
8. The Advocate contends that although the Client sent a proposal on fees, he (the Advocate) neither agreed nor rejected the proposal. As such, he denies that there was an agreement on the fees to be paid.
9. The Advocate contends that in the absence of a retainer agreement between the parties, he was entitled to present his Bill of Costs for taxation. As such, he contends that the taxation process was legitimate.
10. The Advocate subsequently filed another application dated 20<sup>th</sup> January 2025 in which he prays for the following orders:-
  - a. That the court enters judgment in his favour for the amount of Ksh. 337,500.32 as per the Certificate of Taxation dated 13<sup>th</sup> November 2024 with interest thereon from the date of the application till payment in full.
  - b. That the Advocate be allowed to execute for the judgment sum.
  - c. That the court issues directions on costs of the application.
11. The application is founded on, inter alia, section 51 (2) of the *Advocates Act*. It is supported by the grounds appearing on the face thereof and the affidavit sworn by one Olendo Cecilia.
12. The affiant contends that the Advocate represented the Client in CMEL No. 2249 of 2019. She avers that the Client did not pay legal fees for the services which were rendered prompting the Advocate to file the Advocate – Client Bill of Costs dated 18<sup>th</sup> September 2024.
13. The affiant avers that the Bill was taxed on 24<sup>th</sup> October 2024 in the sum of Ksh. 337,500.32 but the Client is yet to settle the amount. In the premises, the Advocate seeks judgment in order to enforce payment.
14. The Client did not file a response to the application. In the premises, the Advocate's application is deemed as unopposed.

## Analysis

15. The law on ascertainment of the quantum of legal fees between advocates and their clients for work done before this court and courts below it is contained in the *Advocates Act* Cap 16 Laws of Kenya. As such, it is this legislation and the Advocates (Remuneration) Order made thereunder which should be



invoked to address any issues relating to legal fees in relation to both non-contentious and continuous business conducted before this court and the courts below.

16. Rule 11 of the Advocates (Remuneration) Order sets out the procedure to be followed in challenging a taxation order arising from taxations of Bills of Costs for the aforesaid business. An individual who is dissatisfied with the order is required to file a reference to the High Court or the courts of equal status as the case may be.
17. The aforesaid provisions on ascertainment of costs and fees have been described as self-containing (Wambugu, Motende & Advocates v Kajulu Holdings Limited & 3 others [2014] KEHC 5219 (KLR)). Therefore, a party who is dissatisfied with a taxation ruling can only challenge it through a reference under rule 11 aforesaid and no other provision of law.
18. In the application before me, the Applicant has moved the court for the various orders under provisions of the *Civil Procedure Act*. The application does not make reference to rule 11 of the Advocates (Remuneration) Order which sets out the procedure for challenging the taxation order. In this context, the application is incompetent.
19. But assuming that it (the application) was competent, would it have been merited? The answer to the question is in the negative.
20. First, a challenge to a taxation order can only be sustained if the applicant alleges and is able to demonstrate that the Taxing Master committed an error of principle in the taxation process. Absent this, the court to which the taxation ruling is challenged is not entitled to interfere with it (the taxation ruling) (see Mwangi Keng'ara & Co Advocates v Mungai (Miscellaneous Application E348 of 2021) [2024] KEHC 14369 (KLR) (Commercial and Tax) (20 November 2024) (Ruling)).
21. In the instant application, the Client does not contend that the Taxing Master committed an error of principle in the taxation. Neither does it assert that the costs awarded are manifestly high or low as to constitute an error of principle. All that it (the Client) alleges is that it cannot afford to pay the taxed costs which is not the same thing as stating that the costs were disproportionately high in comparison to what the law permits.
22. Second, although the Client alleged that the parties had a retainer agreement which fixed the fees which the Advocate was to charge, no such agreement executed by both parties was exhibited before the court. Absent this, the court is not able to make a finding that there was such agreement.
23. Having regard to the foresaid, the court finds that the application dated 5<sup>th</sup> November 2024 is devoid of merit. As such, it is dismissed with costs to the Advocate.
24. The second application by the Advocate seeks for entry of judgment for the taxed costs. Section 51(2) of the *Advocates Act* provides as follows on the subject:-

“The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”
25. In the instant action, the Certificate of Taxation which was issued in favour of the Advocate has not been set aside. As such and in terms of the aforesaid provision, the Advocate is entitled to judgment for the amount in the certificate. Accordingly, I hereby enter judgment for the Advocate for Ksh. 337,500.32 together with interest thereon at court rates from the date of this order.



## **Determination**

26. The upshot is that the court makes the following orders:-

- a. The application dated 5<sup>th</sup> November 2024 is dismissed with costs to the Advocate.
- b. The application dated 20<sup>th</sup> January 2025 is allowed with the consequence that judgment is entered for the Advocate for Ksh. 337,500.32 as per the Certificate of Taxation dated 13<sup>th</sup> November 2024 together with interest thereon at court rates from the date of this order.
- c. Costs of the two applications assessed at Ksh. 10,000.00 are granted to the Advocate.

**DATED, SIGNED AND DELIVERED ON THE 30<sup>TH</sup> DAY OF APRIL, 2026**

**B. O. M. MANANI**

**JUDGE**

In the presence of:

..... for the Advocate

.....for the Respondent

Order

In light of the directions issued on 12<sup>th</sup> July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent, the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

**B. O. M MANANI**

