



**Langat & another v Full Gospel Church of Kenya, Kitale District (Environment and Land Miscellaneous Case E021 of 2025) [2026] KEELC 2815 (KLR) (13 May 2026) (Ruling)**

Neutral citation: [2026] KEELC 2815 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KITALE  
ENVIRONMENT AND LAND MISCELLANEOUS CASE E021 OF 2025**

**CK NZILI, J  
MAY 13, 2026**

**BETWEEN**

**EDWARD LANGAT ..... 1<sup>ST</sup> APPLICANT**

**JUSTUS MUYET LAIBACH ..... 2<sup>ND</sup> APPLICANT**

**AND**

**FULL GOSPEL CHURCH OF KENYA, KITALE DISTRICT ..... RESPONDENT**

**RULING**

1. The Deputy Registrar of this court, through the court's registry, listed an application dated 2/9/2025, brought by the applicants before me. Its seeks:
  - a. Setting aside the ruling by the lower court dated 19/8/2025 with respect to a party-to-party bill of costs dated 18/2/2025 in Kitale CMC E&L No. E184 of 2025.
  - b. The court taxes or assesses afresh, items 1-7 of the bill, in accordance with the applicable law.
  - c. In the alternative, the bill be referred for fresh taxation before a different taxing master with precise guidelines.
2. The application is supported by an affidavit of Edward Langat, sworn on 2/9/2025, on behalf of the 2<sup>nd</sup> applicant. The applicant states that they were the plaintiffs in the lower court who had sued the respondent herein as the defendant, and that, upon instructions, their advocate advised them to file a preliminary objection.
3. The applicants have attached the plaint, the notice of appointment, and the preliminary objection as EL-1(a), (b), (2), and (3).



4. The applicants aver that after the preliminary objection was filed and written submissions filed, a notice of withdrawal of the suit was filed before the trial court could pronounce itself on the preliminary objection, to which their advocate asked for costs.
5. The applicants depose that the matter was marked withdrawn with costs to them, only for the same to be assessed at Kshs. 22,200/=. The applicant termed the assessment as erroneous in principle for under-assessing instruction fees in a defended suit, taxing it half of the tabulated costs without basis in law, failing to award items numbers 2, 3, and 4, or giving reasons for not awarding them, and lastly, taxing off items numbers 5 and 6, yet service had been made as required in law.
6. A party who is aggrieved by a decision of a taxing master has to file a reference to the High Court within 14 days of the decision, after giving notice seeking reasons for the decision. As per the annexure marked EL-(6), the notice was given on 2/9/2025.
7. The ruling of the taxing master delivered on 19/8/2025 shows that the lower court suit was struck out with costs, and the parties had failed to agree on the costs, leading to a bill of costs, to which the respondent had contested some items by way of written submissions.
8. The trial court based its assessment on the value of the subject matter as demonstrated in the sale agreement attached to the notice of motion dated 18/12/2024, and referred to in the plaint. The preliminary objection related to the capacity to sue and be sued.
9. Looking at the bill of costs dated 18/2/2025, the applicants have admitted the value of the subject land. Evidence of payments for items numbers (2), (3), and (4) is not before this court for it to assess whether the trial court ignored them. A party cannot simply assume that uploading documents on the case tracking system is synonymous with payment of filing fees. Court documents uploaded in the system must bear the stamp showing payments, for the court to, as a matter of fact, find them duly filed, stamped, paid, and court-stamped.
10. Whether item numbers (6) and (9) were duly filed and paid for, and an affidavit of service of court processes, is what the court is looking into as evidence of service. Service may as well have been done through email. However, when a taxing master undertakes his duties, he is guided by the evidence before it as proof of payment of court fees and evidence of service of court processes.
11. Regarding item number (7), evidence is what courts look at. The applicants have not attached proceedings for this court to establish and verify that there was court attendance by the applicants on 21/1/2025, 28/1/2025, and 14/1/2025, to attract costs under item number (7).
12. Without attaching the proceedings and supporting documents to the supporting affidavit and the bill of costs, averments in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, and 29 of the supporting affidavit, sworn on 2/9/2025 remain unsubstantiated. Evidence of disbursement and receipts, which were ignored, is missing.
13. In *Kipkorir, Titoo & Kiara Advocates -vs- Deposit Protection Fund Board* [2005] KECA 325 [KLR], the court held that failure to give reasons by the taxing master does not bar an objector from filing a reference. See also *E.T. Gaturu Advocates -vs- Kenya Commercial Bank Ltd* [2012] KEHC 4274 [KLR].
14. In *Premchand Raichand Ltd -vs- Quarry Service of E.A. Ltd* [1972] EA 162, the court held that a successful party ought to be fairly reimbursed for the costs incurred. Instruction fees are determined from the value of the subject matter as discerned from the pleadings as held in *Joreth Ltd -vs- Kigano & Associates* [2002] KECA 153 [KLR].



15. The taxing master based the figure on the ascertainable value of the subject matter at Kshs. 22,000/=. The court finds no error in principle or evidence that the figure is inordinately low.
16. As to attendances, only those that are reasonable, justified, and necessary are allowable under the Advocates Remuneration Order. Without accompanying documents and proceedings, the court finds no basis to hold that the taxing master took into account irrelevant factors or omitted to consider relevant factors. See *First American Bank of (K) Ltd -vs- Shah & Others* [2002] KEHC 1277 [KLR].
17. The law and the best practice are that disbursement must be shown separately at the bottom of the bill of costs, and there must be presentation of receipts or proof at the time of taxation. Allowance of disbursements without proof constitutes an error of principle. See *Ngatia & Associates Advocates -vs- Interactive Gaming & Lotteries Ltd* [2017] KEHC 2189 [KLR].
18. The jurisdiction of this court can only be exercised where there is evidence that the taxation was fundamentally flawed, as held in *Arthur -vs- Nyeri Electricity Undertaking* [1961] EA 497.
19. In *Kenya Airport Authority -vs- Otieno, Ragot & Co. Advocates*, SCOK Petition No. E011 of 2023, the court held that the overall objective of the Advocates Remuneration Order is to prevent exploitation of parties and the remuneration of advocates in a suit, compensate for costs and expenses incurred by a successful party, and maintain the standard in the legal profession by ensuring that the fees paid are reasonable.
20. The court said that what is a reasonable fee has to be determined on a case-by-case basis. The court cited with approval *Premchand Raichand Ltd* (supra), on the guiding principles in assessing costs. On Schedule VIA of the Advocates Remuneration Order, the court said that the subject matter of a suit should be identified first and then the value determined from the pleadings, judgment, or settlement by the parties.
21. The court cited *Republic -vs- Ministry of Agriculture & Others* [2006] eKLR, that there must be a particularised justification of the mode of exercise of discretion by the taxing master as held in *Peter Muthoka & Another -vs- Ochieng & Others* [2019] eKLR.
22. Based on the foregoing case law, I think the reference has no merit. It is dismissed with no order as to costs.
23. Orders accordingly.

**RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 13<sup>TH</sup> DAY OF MAY 2026.**

In the presence of:

Court Assistant - Dennis

Ogongo for the applicants present

Respondent absent

**HON. C.K. NZILI**

**JUDGE, ELC KITALE.**

