

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT NAKURU
ELC NO. 323 OF 2018

JOSEPH KAMAU MANDE
JOHN MWANGI KABICHO
GILBERT NDUNGU NDIRANGU (Suing as the
REGISTERED TRUSTEES OF NEW CONVENANT
DISCIPLES CHURCH).....**1ST DEFENDANT/APPLICANT**

VERSUS

PETER MUIRURI NGANGA
MESHACK NGANGA KARANJA
JOSEPHAT KARUNGII NGUGI
JOAB MARIGA KARANJA (Suing as the
REGISTERED TRUSTEES OF DISCIPLES OF
CHRIST FOUNDATION FELLOWSHIP CHURCH)..
.....**PLAINTIFF/RESPONDENT**
REGISTRAR OF SOCIETIES.....**2ND DEFENDANT**

RULING

1. The 1st Defendant/Applicant filed the instant application dated 20th August, 2025 seeking the following orders:
 - 1. THAT this Honorable Court be pleased to review and or set aside the ruling dated 24th July, 2025 on the Applicant's party & party bill of costs dated 17th**

September, 2024 in terms of items 1, 2 and 18 of the said bill of costs.

2. THAT the Honorable Court exercises its inherent jurisdiction and be pleased to re-tax items 1, 2 and 18 of the Bill of Costs dated 25th July, 2024 (sic).

3. THAT the costs of this Application be provided for.

2. The Application was based on grounds set out and supported by the Affidavit of JOSEPH KAMAU MANDE sworn on 20th August, 2025.
3. He stated that judgment was delivered in their favour on 30th April, 2024 and that they were awarded costs of the suit. He stated that through their advocates, they filed a bill of costs dated 17th September, 2024 against the Plaintiff/Respondent.
4. He further stated that the bill of costs was uncontested and that on 24th July, 2025, the taxing master delivered a ruling taxing the bill of costs at Kshs.969,875. He added that the awarded costs was too low compared to what they incurred in the matter.
5. He stated that he was dissatisfied with the taxation of items 1, 2 and 18. He further stated that the award of Kshs. 300,000 as instruction fees was low despite the time taken to defend the suit, value of the suit and novelty of the documents filed.
6. He stated that a sum of Kshs. 300,000 as instruction fees was fair given the value of the matter. He urged the court to allow the application as prayed.
7. The Plaintiff did not file any response to the application.

8. Both parties did not also file any submissions.

ANALYSIS AND DETERMINATION

9. This court has considered the application and the sole issue for determination is whether there are sufficient grounds to interfere with the taxing officer's ruling dated 24th July, 2025.

10. The Applicant is challenging the taxation of item No. 1 and 2 on instruction fees which was taxed at Kshs. 300,000/= and Item 18 which was taxed off for lack of the number of folios so as to provide a basis for taxation.

11. It was the Applicant's contention that the value of the suit could be adduced from the pleadings, proceedings and operation of the law as having exceeded Kshs.20,000,000. He added that the taxing officer failed to consider the novelty of the pleadings and the issues involved being 71 properties.

12. On item 1, the taxing officer in her ruling found that the value of the subject matter was not disclosed in the pleadings and judgment. It was her argument that the pleadings were however voluminous resulting in substantial time spent in prosecuting the suit. The taxing officer proceeded to exercise her discretion awarded a sum of Kshs.300,000.

13. In the case of **Kipkorir, Titoo & Kiara Advocates V Deposit Protection Fund Board [2006] KEHC 1796 (KLR)** the court held that:

“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.”

14. This was also the holding in the case of **First American Bank of Kenya V Shah and Others [2002] 1 E.A. 64 at 69 by Ringera J.** (as he then was) where it was stated as follows:

“First, I find that on the authorities, this court cannot interfere with the taxing officer’s decision on taxation unless it is shown that either the decision was based on an error of principle, or the fee awarded was so manifestly excessive as to justify an inference that it was based on an error of principle”.

15. I have keenly perused the Taxing Officer’s ruling and the pleadings and it is not in dispute that the Statement of Defence and Counterclaim dated 4th February, 2019 formed the basis of the Party and Party Bill of Costs dated 17th September, 2024. It is a fact that the claim revolved around ownership of the suit properties which the court in its judgment delivered on 30th April, 2024 allowed the 1st Defendant/Applicant’s claim on ownership.

16. It is this court’s view while in agreement with the Taxing Officer that the value of the suit property could not be ascertained from the filed pleadings. It is also a fact that the minimal value of the suit of Kshs. 20,000,000 the Applicant wanted the Taxing

Officer to base her ruling was just an inference but not substantiated.

17. In the circumstances, it is this court's view that the Taxing Officer took into account the relevant considerations in the taxation of instruction fees while also giving her reasons. It is also this court's opinion that the taxing of instruction fees at Ksh.300,000/= was not based on any error of principle, neither were the said fees as awarded so excessive as to justify interference by the Court.
18. With regard to Item No. 18 being the drawn affidavits in support of the Applicant's case, it was the Applicant's contention that the taxing officer failed to award the 67 drawn affidavits at Kshs.67,000.
19. The taxing officer while taxing off the said item, it was her finding that the Applicant failed to include the number of folios of the said affidavit so as to provide a basis for taxation.
20. **Section 17 of the Advocates Remuneration Order** defines a folio as:
"A folio shall for all purposes of this Order be deemed to consist of 100 words and any part of a folio shall be charged as one folio. A sum or quantity of one denomination stated in figures is to be counted as one word: eg. "£25,564 16s 8d." is to be counted as three words, and "254 feet 11 inches" is to be counted as four words."

21. I have perused the court record and it is not in dispute that the item 18 being the drawn affidavits lacked the exact folios therefore making it impossible for the court to determine the number of folios.
22. It is this court's view that the Applicant's contention that the drawn affidavits being 67 thus totaling to Kshs.67,000 does not hold water. In addition, the number of folios was never included in the drawn affidavits therefore the claim on item 18 fails.
23. Consequently, it is this court's view that the Applicant has not provided sufficient grounds for this court to interfere with the taxing officer's ruling on the party and party bill of costs dated 17th September, 2024.
24. The upshot of the above is that the application dated 20th August, 2025 lacks merit and it is hereby dismissed.
25. Each party shall bear their own costs of the reference.
26. It is so ordered.

Ruling dated, signed and delivered virtually at Nakuru this 13th day of May 2026.

L KOMINGOI

JUDGE

In the presence of: -

No appearance for the plaintiffs/Respondents

Ms. Bor for Mr Mwangi for the 1st Defendant/Applicant

Court Assistant: Derick