



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ENVIRONMENTAL AND LAND COURT**  
**ELC. MISC.CASE NO. 54 OF 2015**  
**IN THE MATTER OF TAXATION OF COSTS**

**BETWEEN**

**RATEMO OIRA & CO. ADVOCATES.....ADVOCATE/APPLICANT**

**AND**

**MAGEREZA SAVINGS AND CREDIT**

**CO-OPERATIVE SOCIETY LTD.....CLIENT/RESPONDENT**

**RULING**

Coming up before me for determination is the Notice of Motion dated 8<sup>th</sup> July 2015 in which the Advocate/Applicant seeks for the following orders:

1. Spent.
2. That this court do set aside the Ruling of the Deputy Registrar dated 18<sup>th</sup> June 2015 dismissing the Advocate/Applicant's Bill of Costs dated 28<sup>th</sup> January 2015 (hereinafter referred to as the "Bill of Costs");
3. That this court be pleased to reinstate the Bill of Costs and order that the same be taxed by a different Deputy Registrar;
4. That this court be pleased to order that the Bill of Costs be taxed on a priority basis; and,
5. That the costs of this Application be provided for.

The Application is premised on the grounds appearing on its face together with the Supporting Affidavit of Ratemo Oira, sworn on 8<sup>th</sup> July 2015, in which he averred that he is an Advocate of the High Court of Kenya who has the conduct of this matter for and on behalf of the Applicant. He averred further that the Bill of Costs was dismissed by Deputy Registrar Hon. Sharon Mwayuli on 18<sup>th</sup> June 2015 without taxing it. He averred further that the learned Deputy Registrar:-

1. Failed to consider that the claim was not disputed by the client.
2. Failed to consider that the submissions filed by the Client/Respondent's advocates on item 2 and 18 on perusal of documents where the client said the amount of Kshs. 50/- be allowed and therefore Kshs. 10,750/- be taxed off in each of the items.
3. Failed to consider paragraph 2(c) where the Client/Respondent's advocates admitted the amount allowable is Kshs. 210/- for drawing of letters and urged the Deputy Registrar to tax off Kshs.

- 10,590/- in times 4, 16 and 20.
4. Failed to consider that the Client/Respondent's advocates had admitted that in paragraph 2(f) item 21 relating to service of the documents to the vendor's advocates admitted that they are entitled to Kshs. 500/- and to tax off Kshs. 10,300/-.
  5. Failed to consider that the mode of communication on telephone was through his cell phone no. 0722542958 with the client on 0722542705 and that to commute he used his Toyota Rav 4 registration no. KAX 118V.
  6. Failed to consider that the Client/Respondent's advocate did not urge the prayer for dismissal of the Bill of Costs but urged the court to be fair on both sides.
  7. Failed to consider that the value of the property and award of instruction fee on parcel of land valued at Kshs. 8.8 billion using decided case of Joreth Limited versus Kigano & Associates (2000) E.A. 92.
  8. Failed to consider that he attached copies of the title deed for L.R. No. 12979/4 I.R. No. 68946 comprising 1652 acres valued at Kshs. 8.8 Billion.
  9. Failed to consider Vincent Sosi's letter dated 22<sup>nd</sup> October 2012 addressed to him concerning the said parcel of land and letter dated 24<sup>th</sup> October 2012 forwarding copies of receipts on clearance of land rates with the Nairobi City Council (as it then was).
  10. Failed to consider their letter dated 19<sup>th</sup> October addressed to the Managing Director Villa Point Company Limited.
  11. Failed to consider that he did an official search at the Central Registry Lands Office Nairobi on 24<sup>th</sup> October 2012 and was allocated search No. 1480 and paid Kshs. 500/- for the search.
  12. Failed to consider that on 6<sup>th</sup> November 2012 he did an official search at the Central Registry Lands Office Nairobi and paid Kshs. 5000/= which was allocated no. 372.
  13. Failed to consider that the vendor had paid the outstanding land rates of Kshs. 89,401,691/- on 7<sup>th</sup> December 2012
  14. Failed to consider the copies of unexecuted transfer and sale agreement which the Client/Respondent failed to execute due to failure to raise the down payment of Kshs. 300 million.
  15. Failed to consider that on 14<sup>th</sup> August 2014 they demanded that the client pay them their fees for the services rendered.

On those grounds, the Applicant sought for this court to set aside the ruling of Deputy Registrar Sharon Mwayuli, reinstate the Bill of Costs and order that the same be taxed by a different Deputy Registrar.

I have perused the Ruling delivered in this matter by the Learned Deputy Registrar Sharon Mwayuli on 18<sup>th</sup> June 2015 and have noted that the matters raised by the Advocate/Applicant appear not to have been addressed directly. Whether or not there is merit in the matters that the Applicant has raised listed above as nos. 1-15 is a matter to be determined. In light of this finding, I hereby set aside the Ruling delivered on 18<sup>th</sup> June 2015, I reinstate the Bill of Costs and I direct that the Bill of Costs be taxed afresh before the Learned Deputy Registrar, Isabella Barasa.

It is so ordered.

**DELIVERED, DATED AND SIGNED AT NAIROBI THIS 1<sup>ST</sup>**

**DAY OF APRIL 2016.**

**MARY M. GITUMBI**

**JUDGE**