



REPUBLIC OF KENYA



**Isaac Onyango & Company Advocates v Ansazi Gambo Tinga & Safari Gambo Tinga
(Miscellaneous Civil Application 10 of 2021) [2024] KEELC 4400 (KLR) (28 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4400 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
MISCELLANEOUS CIVIL APPLICATION 10 OF 2021
FM NJOROGE, J
MAY 28, 2024**

BETWEEN

ISAAC ONYANGO & COMPANY ADVOCATES ADVOCATE

AND

ANSAZI GAMBO TINGA & SAFARI GAMBO TINGA CLIENT

RULING

1. For determination is the Notice of Motion dated 5th October 2023 seeking the following orders, verbatim:
 1. That the honourable court be pleased to review/vary or set aside the Ruling issued on 22nd February 2023 allowing the Advocate/Client bill of costs dated 24th February 2022.
 2. That the honourable court be pleased to reconsider the clients' advocate entered appearance filed and served our written submissions and a letter of offer with intentions to settle the matter out of court which were not considered at the time ruling was being delivered and review, vary and/or set aside its ruling.
 3. That costs of the application be provided for.
2. The application is premised on the grounds set out on its face and the supporting affidavit of Angeline Adhiambo Omollo, the advocate in conduct of the matter who deponed that the bill of costs was taxed ex parte; that upon perusal of the court file she noticed that pleadings she had tendered as evidence had not been placed in the court file and that her clients stand to suffer irreparable loss and damage as the amount taxed is substantial.
3. In response, the advocates filed a replying affidavit sworn by Isaac Onyango who deponed that the application lacks merit for reason that ruling was delivered on the bill of costs on 22nd February 2023 thus the court lacks the jurisdiction to entertain the application. He stated that the bill of costs was



lodged in court on 6th April 2022 and came up for taxation on 27th June 2022 and despite the clients being served they did not attend court or appoint an advocate. Further, when the bill of costs came up on several other dates, the clients did not attend despite being served. He additionally stated that the clients have not demonstrated any prejudice they will suffer and/or that the decision of the taxing master could have been swayed by any of the issues they allegedly raise in their response. Moreover, the only available option was for the clients to raise an objection, seek reasons for the decision and then lodge a reference.

Disposition

4. The court directed that the application be disposed of by way of written submissions. At the time of writing this opinion, none of the parties had complied with the court's directions of filing written submissions. As such, the application is ripe for dismissal for non-compliance with court's orders. Consequently, the application dated 5th October 2023 is hereby dismissed with costs to the respondents.

DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 28TH DAY OF MAY 2024.

MWANGI NJOROGE

JUDGE, ELC, MALINDI

