



**Kiminza & 11 others v Amboseli Court Limited (Environment & Land  
Case 643 of 2006) [2024] KEELC 4135 (KLR) (15 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4135 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 643 OF 2006**

**LN MBUGUA, J  
MAY 15, 2024**

**BETWEEN**

- FRANCIS MUTHUSI KIMINZA ..... 1<sup>ST</sup> APPLICANT**
- ESTHER WAITHIEGENI KIAMA ..... 2<sup>ND</sup> APPLICANT**
- FLORENCE MUTISYA ..... 3<sup>RD</sup> APPLICANT**
- PAMELA OGOLA OPIYO ..... 4<sup>TH</sup> APPLICANT**
- JOSEPH DIBWORO ..... 5<sup>TH</sup> APPLICANT**
- CHARLES MUOKI ..... 6<sup>TH</sup> APPLICANT**
- ANDREW KARIUKI NJOROGE ..... 7<sup>TH</sup> APPLICANT**
- JASON MWANZIA ..... 8<sup>TH</sup> APPLICANT**
- APOLLO MWANGI NJUGUNA ..... 9<sup>TH</sup> APPLICANT**
- RAHAB MUTHONI MUGAMBI ..... 10<sup>TH</sup> APPLICANT**
- FRANCIS MBUTHIA MUKUNA ..... 11<sup>TH</sup> APPLICANT**
- ESTHER WACEKE MWANGI ..... 12<sup>TH</sup> APPLICANT**

**AND**

**AMBOSELI COURT LIMITED ..... DEFENDANT**

**RULING**

1. The Plaintiffs’ Chamber summons dated 17.11.2023 and amended on 12.2.2024 is for determination. They seek orders that the Honourable court remits their bill of costs dated 2.12.2022 to the Deputy Registrar for fresh taxation, with directions that the taxation be in compliance with the provisions of



- schedule 6 of the Advocates Remuneration Order, 2014 and Order 21 Rule 9 (d) of the Civil Procedure Rules, 2010 (Revised 2020). They also pray that costs be provided for.
2. The application is premised on grounds on its face and on the 1<sup>st</sup> Plaintiff's supporting affidavit sworn on 17.11.2023. He avers that the taxing officer's ruling dated 9.11.2023 on the Plaintiffs' party and party bill of costs dated 2.12.2022 is not taxed as per scale under schedule 6 of the Advocates Remuneration Order, 2014.
  3. He points out that the said ruling failed to adhere to the established known principles of taxation, including the nature and importance of the matter and the general conduct of proceedings. He contends that the plaintiffs' party and party bill of costs dated 2.12.2022 charged at ksh. 2,086,446.60 / = should be taxed as drawn.
  4. No response was filed in respect of the aforementioned application. The Plaintiffs' complaint is that their party and party bill of costs dated 2.12.2022 is not taxed to scale under schedule 6 of the Advocates Remuneration order, 2014.
  5. In Kipkorir, Tito & Kiara Advocates v Deposit Protection Fund Board [2005] eKLR the Court stated that;  
  
    " On 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."
  6. The question to determine is whether the taxing officer erred in principle in arriving at her decision of 9.11.2023 in which she applied Schedule 6 of the Advocates (Remuneration) (Amendment) Order 2006 and 2014.
  7. The record indicates that this suit was initiated by a plaint dated 6.11.2006 and amended on 15.7.2010. Thus the legal regime governing the assessment of instruction fees was the Advocates (Remuneration) (Amendment) Order, 2006. For services rendered in 2006 to 2022, the 2014 and the 2006 remuneration order were applicable as appropriate. This is the position taken by the learned taxing officer.
  8. The Plaintiffs have not demonstrated that the taxing officer erred in principle. In the circumstances, their application is not merited and the same is hereby dismissed with no orders as to costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 15<sup>TH</sup> DAY OF MAY, 2024 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:-

Kokimbulu for Plaintiff

M/s Mwangi holding brief for Macharia for Defendant

Court assistant: Eddel

