



**Kipteng v Good Hope Sacco Limited (Miscellaneous Application
E038 of 2024) [2025] KEELRC 128 (KLR) (28 January 2025) (Ruling)**

Neutral citation: [2025] KEELRC 128 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
MISCELLANEOUS APPLICATION E038 OF 2024**

J RIKA, J

JANUARY 28, 2025

BETWEEN

ANGELINE NAANYU KIPTENG APPLICANT

AND

GOOD HOPE SACCO LIMITED RESPONDENT

RULING

1. The Applicant was a successful Claimant, at Kilgoris PM's Court Employment Cause Number 2 of 2019.
2. There is a consent order between her and a garnishee, recorded on 24th August 2023, releasing the decretal sum of Kshs. 1,675,271.
3. Her problem, which necessitated her to approach this Court from Kilgoris, arose from a ruling delivered by Hon. W.C. Waswa, Senior Resident Magistrate, on 24th July 2024. The ruling was with regard to a Bill of Costs filed by the Claimant.
4. The Hon. Waswa found that there was no proper claim for assessment of costs before him, closed the file, with leave granted to the Claimant to appeal against the Ruling.
5. She filed this Miscellaneous Application, which she characterizes as a reference, invoking various provisions of *the Constitution*, the *Civil Procedure Act* and the Advocates Remuneration Order.
6. She prays the Court to grant the following 3 main prayers: -
 - a. The Ruling by Hon. Waswa dated 24th July 2024 be set aside.
 - b. The Bill of Costs is placed before another Magistrate other than Hon. Waswa, for taxation.
 - c. Upon taxation afresh, an order for interest on taxed costs, at 14% per annum is granted.



7. Other prayers in the periphery are not clear and seem to replicate the above 3 prayers.
8. The Respondent indicated in the course of the proceedings, that it had filed a Notice of Preliminary Objection. The Court has not traced such a Notice in its physical file, at the time of preparing the Ruling. There is similarly no Response to the Application. The Respondent undertook to file submissions, but against none are traceable in the physical file.
9. The Judgment delivered at Kilgoris, did not award costs.
10. The Bill of Costs filed by the Claimant, related to two applications, dated 23rd December 2021 and 8th February 2022. She submits that an order for costs was granted to her, in a Ruling dated 8th July 2022.
11. The Ruling related to garnishee proceedings between the Claimant and the garnishee, Co-operative Bank Limited. There is an order for costs to the Claimant, although it is not clear if the order was against the garnishee Bank or the Respondent
12. The Bill of Costs was drawn at a staggering sum of Kshs. 636,047. The Claimant drew the Bill of Costs in person, and should perhaps have sought legal advice. Without legal advice, the Claimant might in the end realize she is running after the wind. Costs in an application for garnishment, where the decretal sum was Kshs. 1.6 million, can hardly amount to Kshs. 636,047.
13. There is however on record, an order or orders, made for costs on certain applications, which the Claimant ought not to have been prevented from pursuing. The presence of such orders is recorded in the proceedings.
14. The Hon. Waswa rejected her Bill of Costs, for not conforming to Order 21 Rule 9A, 9B and 9C of the [Civil Procedure Rules](#).
15. But once the Bill of Costs as filed by the Claimant in person was rejected, on the ground that there was no proper claim for assessment of costs before the Court, did the orders granting those costs fall by the wayside? The Court does not think so, and closure of the file, before the Claimant could exhaust her pursuit of costs, however misguided that pursuit be, was not the right decision.
16. The concern by the Hon. Waswa was that there was no proper claim for assessment of costs before him. What would happen if the Claimant wished to present a proper claim for costs, while the file granting her costs, was closed?

It is ordered: -

- a. The application by the Applicant/ Claimant is partly allowed.
- b. The file at Kilgoris PM's Employment Cause Number E002 of 2019 shall be reopened.
- c. The Applicant/ Claimant may file her Bill of Costs afresh, complying with all the procedures over which her previous Bill of Costs was rejected.
- d. The fresh Bill of Costs be taxed by any other Magistrate with the requisite jurisdiction, other than Hon. Waswa.
- e. The Applicant / Claimant is advised to seek legal advice from a qualified Legal Practitioner, in her pursuit of costs.
- f. No order on the costs.



DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAKURU,
UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT
PRACTICE DIRECTIONS, 2020, THIS 28TH DAY OF JANUARY 2025.

JAMES RIKA

JUDGE

