



**Tom Ojienda & Associates v Nairobi City County Assembly (Miscellaneous Cause 113 of 2016) [2025] KEELRC 963 (KLR) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEELRC 963 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS CAUSE 113 OF 2016**

**S RADIDO, J  
MARCH 27, 2025**

**BETWEEN**

**PROF TOM OJIENDA & ASSOCIATES ..... ADVOCATE**

**AND**

**NAIROBI CITY COUNTY ASSEMBLY ..... CLIENT**

**RULING**

1. Prof Tom Ojienda & Associates (the advocate) filed an advocate/client Bill of Costs dated 1 December 2016 against the Nairobi City County Assembly (the Respondent).
2. On 13 April 2017, the Taxing Officer taxed the Bill of Costs at Kshs 723,831/30.
3. The advocate was aggrieved with the decision of the Taxing Officer and he lodged a Notice of Objection under Rule 11(2) of the Advocates Remuneration Order *with the Court on 26 April 2017, contending that:*

Take Notice that Prof Tom Ojienda & Associates the advocate/applicant herein objects to and is aggrieved by the taxation of the following items of the Advocate/Applicant's Bill of Costs dated 18<sup>th</sup> August 2016 and filed on 11<sup>th</sup> October 2016 and taxed on 13<sup>th</sup> April 2017 and intends to file an application before the Judge of the Court under the Advocates Remuneration Order seeking to reverse the same: -

.....

Kindly record and forward to us the reasons for the said taxation decision delivered on 13<sup>th</sup> April 2017 as required under Rule 11(2) of the Advocates Remuneration Order.

4. The parties appeared before the Taxing Officer on 28 November 2019. The advocate informed the Taxing Officer that he was ready to urge the Objection, but the Respondent objected on the ground that a Reference had not been filed.



5. The Taxing Officer directed that the Objection be placed before a Judge on 27 January 2020. None of the parties appeared on 20 January 2020.
6. The parties appeared severally before the Taxing Officer, and during one appearance, they informed the Court that they were negotiating.
7. Nothing came out of the negotiations, and on 27 November 2024, the advocate requested the Taxing Officer to place the Objection before a Judge.
8. When the Objection was placed before the Court on 5 March 2025, it directed the parties to address it on whether the Notice of Objection was competent on 24 March 2025.
9. The Court directed the advocate to serve a hearing notice.
10. When the Objection was called out on 24 March 2025, Ms Ojienda informed the Court that a hearing notice had been served, and that an affidavit of service had not been filed.
11. The advocate further sought an adjournment to get instructions. The Court declined to grant the adjournment and directed that it would deliver its Ruling on the Objection today.
12. Rule 11(2) of the Advocates Remuneration Order sets out the steps or processes a party dissatisfied with a taxation should take.
13. The first step is for the dissatisfied party to seek to notify the Taxing Officer of his/her objection within 14 days of the taxation Ruling.
14. The Taxing Officer is then obligated to give the reasons for the taxation to the Objector (more often than not, the reasons are embodied in the taxation Ruling).
15. The next step is for the Objector to move the Court within 14 days after receipt of the reasons through a Chamber Summons, setting out the grounds for objection. This is normally called a Reference.
16. The advocate raised an Objection to the taxation within 14 days as contemplated by the Rules.
17. In terms of the Rules, the Taxing Officer ought to have given the Objector (and or parties) her reasons for the taxation to enable the advocate to decide whether to file a Reference or not within 14 days.
18. The Court has already stated that the reasons for taxation are usually embodied in the Ruling. The advocate has not disclosed whether the Ruling in the instant case was supplied to him or not, or whether the reasons it sought were embodied in the Ruling.
19. As it is, the Court's or Judge's jurisdiction is invoked and determined by a Reference through a Chamber Summons. There is no competent Reference before the Court.

## **Orders**

20. The Court finds that there is no competent application before it.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIVASHA ON THIS 27<sup>TH</sup> DAY OF MARCH 2025.**

**RADIDO STEPHEN, MCIARB**

**JUDGE**

Appearances

For advocate Prof Tom Ojienda & Associates, Advocates



For Respondents Makallah Theuri & Co. Advocates  
Court Assistant Wangu

