



**Ken Muriuki & Peter Kirimi Mbogo t/a Mbogo & Muriuki  
Advocates v County Government of Isiolo (Miscellaneous Application  
E001 of 2025) [2025] KEELRC 800 (KLR) (12 March 2025) (Ruling)**

Neutral citation: [2025] KEELRC 800 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MERU  
MISCELLANEOUS APPLICATION E001 OF 2025  
ON MAKAU, J  
MARCH 12, 2025**

**BETWEEN**

**KEN MURIUKI & PETER KIRIMI MBOGO T/A MBOGO & MURIUKI  
ADVOCATES ..... APPLICANT**

**AND**

**THE COUNTY GOVERNMENT OF ISIOLO ..... RESPONDENT**

**RULING**

1. The applicant brought the Notice of Motion dated 20<sup>th</sup> January 2025 under section 51 (2) of the [Advocates Act](#) and Rule 7 of the Advocates Remuneration Order (ARO). It seeks the following orders: -
  - a. That Judgment be entered in favour of Mbogo & Muriuki Advocates (the applicant) against The County Government Of Isiolo (respondent) for the sum of Kshs.24,304,693/= pursuant to a certificate of costs issued to the applicant against the respondent.
  - b. That interest at 14% per annum does accrue on the sum of Kshs.24,304,693/- from the date of taxation until payment in full.
  - c. That the costs of the application be borne by the respondent.
2. The application stands on the grounds set out in the body of the Motion and the Supporting Affidavit sworn on 20<sup>th</sup> January 2025 by one Kenneth Muriuki Advocate. In brief, the applicant's case is that it was instructed by the respondent to defend a claim which culminated in a judgment of Kshs.675,760,690. Thereafter, the applicant filed client Advocate Bill of Costs against the respondent which was allowed at Kshs.24,304,693 on 17<sup>th</sup> December 2024. Subsequently, a certificate of costs was issued by the Taxing officer of the court on 17<sup>th</sup> January 2025. The applicant has now asked the court to enter judgment in terms of the taxed costs plus interests.



3. The respondent filed Grounds of Opposition dated 24<sup>th</sup> January 2025 urging the court not to enter judgment as prayed until its reference dated 23<sup>rd</sup> January 2025 was heard and determined.
4. The application herein was heard on 13<sup>th</sup> February 2025 when Mr.Muriuki Advocate submitted that the alleged Reference by the respondent is time barred as it was filed on 24<sup>th</sup> January 2025, 48 days after the taxing officer's decision. He further submitted that Order 50 Rule 4 of the Civil Procedure Rules which freezes time from 21<sup>st</sup> December to 13th January does not apply to matters under the ARO and specifically paragraph 11 of the ARO.
5. For emphasis, he filed four (4) authorities but basically relied on George Miyare T/a Miyare & Co.Advocates v Evans Gor Semelango (2019) eKLR where Aburili J held that Order 50 Rule 4 of the Civil Procedure Rules does not apply to the time for filing objections and References under paragraph 11 of the ARO.
6. Mr.Koome Advocate for the respondent relied on the Grounds of opposition and made no submissions.

### **Determination**

7. The applicant has placed before the court a certificate of costs issued on 17<sup>th</sup> January 2025 and prays for entry of judgment.
8. The issues for determination are:
  - a. Whether the reference dated 23<sup>rd</sup> January 2025 is time barred.
  - b. Whether the application herein should be allowed as prayed.

### **Time barred Reference**

9. From the onset, I have to state that the reference dated 23<sup>rd</sup> January 2025 has not been placed before me for consideration and as such I am only addressing it here because the respondent has alluded to it as a good ground for the application herein to be halted. The applicant has however, submitted that the reference having been filed 48 days after the impugned decision, the same is time barred and therefore not a good reason for the court not to enter the judgment as prayed.
10. I have considered the submissions by the applicant and more so the decision by Aburili J in the George Miyare case, supra, and I am persuaded that the Reference by the respondent herein dated 23<sup>rd</sup> January 2025 is time barred and therefore not a good ground for this court not to fully determine the instant application. A reference to challenge a decision on costs by the taxing officer is only open for challenge within 14 days of the decision and not 48 days.
11. In the instant case, costs were determined on 17<sup>th</sup> December 2024 and the Reference dated 23<sup>rd</sup> January 2025 was filed on 24<sup>th</sup> January 2025. When the matter came up for mention on 29<sup>th</sup> January 2025 Mr.Koome alleged that the reference was filed within the prescribed time considering the court recess.
12. However, I agree with the decision of Aburili J in the aforementioned case, that the freezing of time during the December/January recess provided under Order 50 Rule 4 of the Civil Procedure Rules does not apply to proceedings contemplated by paragraph 11 of the ARO. Accordingly, I find and hold that the reference filed 48 days after the decision of the Taxing officer is time barred and cannot muzzle this court from determining the application herein.



**Merits of the application herein**

13. A certificate of costs issued by the taxing officer of the court is binding on the parties until it is set aside. The certificate herein has not been set aside and therefore it binds the parties. Consequently, I allow the application as prayed in prayer 1, 2 and 3 of the motion.

**DATED, SIGNED AND DELIVERED AT NYERI THIS 12TH DAY OF MARCH, 2025.**

**ONESMUS N MAKAU**

**JUDGE**

ORDER

This ruling has been delivered to the parties via Teams video conferencing with their consent, having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

**ONESMUS N MAKAU**

**JUDGE**

