



**Chaudhri & Associates v Lady Lori (Kenya) L (Miscellaneous Civil Application
E157 of 2022) [2025] KEELRC 1533 (KLR) (22 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1533 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS CIVIL APPLICATION E157 OF 2022**

L NDOLO, J

MAY 22, 2025

IN THE MATTER OF THE ADVOCATES ACT (CAP 16, LAWS OF KENYA)

-AND-

IN THE MATTER OF THE ADVOCATES (REMUNERATION) ORDER, 2014

-AND-

IN THE MATTER OF TAXATION OF BILL OF COSTS

-AND-

IN THE MATTER OF APPLICATION OF EXECUTION OF DECREE

BETWEEN

CHAUDHRI & ASSOCIATES ADVOCATE

AND

LADY LORI (KENYA) LTD CLIENT

(Arising from ELRC Cause No 1104 of 2016)

RULING

1. This ruling determines the Client's Chamber Summons dated 10th January 2024 and the Advocate's Notice of Motion dated 3rd July 2024.
2. By its Chamber Summons, the Client seeks orders to set aside the Taxing Officer's determination made on 3rd October 2023 on items Number 1, 2, 3 -55 of the Advocate/Client Bill of Costs. The Client also seeks leave to file a reference out of time.
3. The Client's application is supported by an affidavit sworn by its Counsel, Moses Tumu, and is premised on the following grounds:



- a. The Taxing Officer misdirected himself entirely in finding that there was any legal fees balance between the Advocate and the Client, which in fact did not exist;
 - b. The Taxing Officer misdirected himself in law in not finding that the Advocate/Client Bill of Costs was time barred;
 - c. The Taxing Officer misdirected himself in proceeding to tax items Number 3 to 55, without any basis, hence arriving at the wrong figures as taxed costs;
 - d. Without prejudice to (a) above, the Taxing Officer misdirected himself in awarding an inordinately high figure to the Advocate, without factoring in fees already paid and the decree amount;
 - e. The Taxing Officer misdirected himself entirely in dealing with the Bill of Costs and proceeded on wrong principles while taxing the Bill;
 - f. The Taxing Officer misdirected himself in dealing with the Bill of Costs while relying on evidence not supplied to the Court nor served upon the Client, thereby gravely prejudicing the Client;
 - g. The Taxing Officer's misdirection and errors complained of offend the known principles of taxation;
 - h. The delay in filing the reference was due to failure by the Taxing Officer to supply the Client with the reasons for taxation in time, but the Notice of Objection was filed within the allowed timelines.
4. In his affidavit in support of the application, the Client's Counsel, Moses Tumu depones that the Client filed an objection to the taxation and simultaneously sought reasons for the taxation, by letter dated 5th October 2023.
 5. Counsel states that despite spirited follow up, the reasons for taxation were not forthcoming.
 6. According to the Client, the delay in filing the reference is excusable and any prejudice to the Advocate can be adequately compensated by way of costs.
 7. The Advocate opposes the Client's application by a replying affidavit sworn by Mohamed Ferhan Chaudri, Advocate on 4th November 2024.
 8. Counsel defends the taxation by the Taxing Officer as accurate and fair. He asserts that the Client's attempt to file a reference is time barred. He points out that the Taxing Officer delivered his ruling on 11th November 2023 and the Client failed to file any reference within the prescribed 14-day period as mandated under Rule 11(1) of the Advocates (Remuneration) Order.
 9. According to Counsel the taxed fees is reasonable and consistent with Rule 7 of the *Advocates (Remuneration) Order*. He states that the Client was given ample opportunity to review all the documents filed. He adds that the Taxing Officer's decision was informed by submissions by both parties.
 10. Counsel maintains that responsibility for the delay in bringing a reference lies squarely at the Client's doorstep.
 11. The Advocate's application dated 3rd July 2024, seeks judgment in the sum of Kshs. 436,493.91 plus costs at 14% from 10th November 2023 until payment in full.



12. The application is supported by an affidavit sworn by Mohamed Ferhan Chaudhri, Advocate and is based on the following grounds:
 - a. That the Advocate's Bill of Costs has been taxed and a Certificate of Taxation issued;
 - b. That the Client has continually neglected and/or failed to pay legal fees duly earned, despite demand and notice being served;
 - c. That the application is necessitated by the fact that the financial liquidity of the Client is unknown;
 - d. That an Advocate is legally entitled to fees duly earned in the course of service in line with the Advocates (Remuneration) Order;
 - e. That the Client does not dispute the fees;
 - f. That the application is made in the sole interest of justice and in due realisation of legal fees earned by the Advocate;
 - g. That if the Court fails to grant the orders sought, the Advocate is likely to suffer gross prejudice as the financial liquidity of the Client is in question;
 - h. That the Advocate is entitled to the judgment, decree and interest.
13. By its own choice, the Client opted to present a composite application, seeking leave to file a reference out of time, while arguing grounds for the reference itself. In fact, the bulk of the Client's pleadings and submissions were dedicated to the merits of a reference.
14. It would appear that the Client assumed that the plea for extension of time within which to bring a reference would be granted as a matter of course. This may explain why the Client did not present any reasons as to why the Court should exercise discretion in its favour, by allowing it to bring a reference out of time.
15. Rule 11 of the *Advocates (Remuneration) Order* sets out an elaborate procedure for objecting to a taxation by a Taxing Officer as follows:
 11. Objection to decision on taxation and appeal to Court of Appeal
 - (1) Should any party object to the decision of the taxing officer, he may within fourteen days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.
 - (2) The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by chamber summons, which shall be served on all the parties concerned, setting out the grounds of his objection.
 - (3) Any person aggrieved by the decision of the judge upon any objection referred to such judge under subsection (2) may, with the leave of the judge but not otherwise, appeal to the Court of Appeal.
 - (4)
16. The Taxing Officer delivered a detailed ruling on taxation on 3rd October 2023. Significantly, the ruling contained reasons for each decision taken on the Bill of Costs presented for taxation. As held in *Vincent Kibiwott Rono v Abraham Kiprotich Chebet & another* [2022] eKLR where a ruling by a Taxing



Officer contains adequate reasons for taxation on contested items, there is no need to seek for further reasons.

17. The Client cannot therefore be heard to complain that it did not receive reasons for the decision by the Taxing Officer. In any event, apart from an unsubstantiated statement contained in the Client's pleadings about follow up on the reasons, there was no evidence of any real effort made by the Client in this regard.
18. In the Advocate's submissions dated 15th November 2024, reference was made to the decision in *Agarwal v Kenya Commercial Bank Ltd* [2019] eKLR where it was affirmed that references filed outside the prescribed timelines ought not be entertained, save for compelling reasons to justify the delay.
19. Reference was also made to *Republic v The Taxing Master of the High Court of Kenya* [2018] eKLR where it was held that the time limits for filing of references are mandatory and applications filed after expiry of the set period ought to be dismissed, unless exceptional reasons for the delay have been presented.
20. In the present case, no credible reason has been advanced for the delay, which in my view, is unreasonable.
21. For the foregoing reasons, the Client's application dated 10th January 2024 is dismissed. Conversely, the Advocate's application dated 3rd July 2024 is allowed.
22. The Client will pay the costs of both applications.
23. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 22ND DAY OF MAY 2025

LINNET NDOLO

JUDGE

Appearance:

Mr. Bruno for the Advocate

Mr. Tumu for the Client

