



Midega v Kenya Electricity Generating Company Limited (Employment and Labour Relations Petition E196 of 2021) [2025] KEELRC 1856 (KLR) (26 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1856 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS PETITION E196 OF 2021**

MN NDUMA, J

JUNE 26, 2025

BETWEEN

JOHN OUMA MIDEGA PETITIONER

AND

KENYA ELECTRICITY GENERATING COMPANY LIMITED ... RESPONDENT

RULING

1. The Reference before court challenges the ruling of the taxing master delivered on 30/10/2024 in which he taxed the Applicant's bill of costs at Kshs. 246,438.00 when the Applicant sought Kshs. 6,596,438.00 which was taxed off.
2. The Applicant states that the taxing master considered the wrong bill of costs dated 9/1/2024 seeking Kshs. 860,502.00 yet the Applicant's bill of costs dated 30/7/2024 was seeking a total of Kshs. 6,596,438.00.
3. That the taxing master considered the wrong bill of costs and erroneously made reference to a judgement supposedly delivered by Justice Byram Ongaya yet the judgment in this matter was delivered by Justice Mathews Nderi Nduma.
4. It is submitted that the master considered the wrong bill of costs. That the ruling by the master be set aside and the matter be placed before another taxing master to be re-done. The court was referred to the Court of Appeal decision in Kamunyori & Co. Advocates versus Development Bank of Kenya Ltd [2015] KECA (KLR) where it was held

"Failure to ascertain the correct subject matter in a suit for the purpose of taxation is an error of principle. So too, failure to ascribe the correct value to the subject matter is an error of principle. Authorities on taxation show that a Judge will normally not interfere with the Taxing Officer's decision on taxation unless it is based on an error of principle. Where it is shown that the sum awarded was so manifestly excessive as to justify interference, an error



of principle can be inferred. If instructions fee is arrived at on the wrong principles, it will be set aside [underlined for emphasis]”

5. The Applicant states that the amount assessed is manifestly low and is based on the wrong bill of costs. That on that basis alone the same be set aside.
6. The court has considered the grounds of opposition filed on 11/2/2023 by the respondent, the Application and the ruling by the taxing master Hon. D. O. Mbeja dated 30/10/2024 and is satisfied that the ruling contains several errors of fact including that the bill of costs before him for taxation is dated 9/1/2024, when the actual bill for taxation is dated 30/7/2024. Further, the master refers to a judgment of Justice Byram Ongaya, when the judgment in this matter was delivered by Nderi Nduma J.
7. On the above basis, the court finds that the taxation of the bill was done on a wrong premise and the ruling dated 30/10/2024 is set aside and the matter remitted back for taxation of the correct bill of costs by a Deputy Registrar other than Hon. D. O. Mbeja.

No order as to costs.

DATED AT NAIROBI THIS 26TH DAY OF JUNE 2025

MATHEWS NDUMA

JUDGE

Appearance:

Mr. Odhiambo for Applicant

Mr. Okoth for Respondent

Mr. Kemboi – Court Assistant

