



**Cool Rivers Hotel Limited v Chege (Cause 304 of 2014)
[2025] KEELRC 1969 (KLR) (2 July 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1969 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE 304 OF 2014
AN MWAURE, J
JULY 2, 2025**

BETWEEN

COOL RIVERS HOTEL LIMITED APPLICANT

AND

JOSEPH MUREGI CHEGE RESPONDENT

RULING

1. The Respondent/Applicant filed a Notice of Motion dated 10th April, 2025, filed under Certificate of Urgency seeking the following orders that:
 1. This Honourable Court be pleased to review and set aside the taxation of the Claimant's Bill of Costs dated 4th August 2023 and the Certificate of Costs issued on 24th September 2024.
 2. The costs of this Application be provided for.
2. The application is brought to be expressed under Rule 11 of the Advocates (Remuneration) Order, Section 3A of the [Civil Procedure Act](#), and all other enabling provisions of the law.

Respondent/Applicant's case

3. The Respondent/Applicant, a Director of Cool Rivers Hotel Limited, avers that following a judgment delivered on 31st July 2023, awarding the Claimant/Respondent Kshs.313,501.30/= and costs, the Claimant/Respondent submitted a Bill of Costs dated 4th August 2023, seeking Kshs.243,275/= was excessive.
4. The Respondent/Applicant avers that the taxing officer, Hon. Kyalo, awarded Kshs.206,375/= in a ruling dated 24th September 2024, later formalized through a Certificate of Costs.
5. The Respondent/Applicant contends that the taxing officer erred in applying taxation principles under the Advocates Remuneration Order, thereby necessitating judicial intervention.



6. The Respondent/Applicant also contests the taxation of the Claimant/Respondent's Bill of Costs, asserting that the taxing officer erred by applying an omnibus approach rather than taxing each item individually, as mandated by Schedule Iv of the Advocates Remuneration Order, specific items include items 1,2,3(a,b,c,d,c,f,g,h,1,j,k,l,m,n,o,p,q), Items 4,5(a,b,c,d and e) and Items 6,7B(a,b,c,d,e,f,g,h,i,j,k,l,m,n,o,p,q,r,s), and Items 8,9A,9B and 9C were grouped and taxed without explanation, denying the Respondent/Applicant procedural fairness.
7. The Respondent/Applicant avers that the taxing officer is further at fault for awarding costs amounting to 69% of the decretal sum without applying proper legal principles.
8. The Respondent/Applicant urges this Honourable court to set aside the Certificate of Costs and order a fresh taxation before a different taxing officer.

Claimant/Respondent's replying affidavit

9. In opposition to the application, the Claimant/Respondent filed a replying affidavit dated 14th April, 2025.
10. The Claimant/Respondent avers that the Claimant/Respondent's application is in bad faith in an attempt to delay payment of a lawfully awarded sum.
11. The Claimant/Respondent avers that the Respondent/Applicant failed to contest the Bill of Costs despite having ample opportunity before and after the hearing on 6th August 2024, during which the Respondent even invited the court to tax the bill "as drawn."
12. The Claimant/Respondent avers that the Respondent/Applicant's complaints focus only on format, not substance, and that the taxation reduced from Kshs. 243,275/= to Kshs.206,375/=, demonstrates that the taxing officer assessed the bill thoroughly.
13. The Claimant/Respondent maintains there is no factual challenge to any specific cost item, and dismisses the objection based on the 69% cost-to-award ratio as frivolous.
14. The Claimant/Respondent avers that the reference is an afterthought and has prejudiced them by denying timely access to funds, and thus urges this Honourable court to dismiss the reference with costs.
15. This Honourable Court directed the parties to dispose of the application through written submissions, but neither party filed written submissions.

Analysis and determination

16. The court has considered the application together with the supporting affidavit and replying affidavit; the issue for determination is whether the application is merited.
17. Rule 11 of the Advocates Remuneration Order provides that a party dissatisfied with a taxing officer's decision must notify the officer in writing of the specific items objected to within 14 days. The taxing officer must then provide reasons for the decision, after which the objector has another 14 days to file a chamber summons before a judge, stating the grounds of objection and serving all parties. If dissatisfied with the judge's ruling, the objector may appeal to the Court of Appeal, only with the judge's permission. Additionally, the High Court has the discretion to extend the time limits for these steps upon application, even if the deadline has already passed.
18. In *National Bank of Kenya Limited v Ecobank Kenya Limited & another* [2025] KECA 1131 (KLR) the Court of Appeal cited the case of *Premchand Raichand Ltd Another v Quarry services of East*



Africa Ltd and Another No. 3 [1972] EA 162 former Court of Appeal for Eastern Africa identified some of the principles of taxation of costs to include:

- i. That costs should not be allowed to rise to such a level as to confine access to the courts to the wealthy;
- ii. That a successful litigant ought to be fairly reimbursed for the costs that he or she has had to incur;
- iii. That the general level of remuneration of advocates must be such as to attract recruits to the profession; and;
- iv. That so far as practicable, there should be consistency in the awards made.

19. Still in *National Bank of Kenya Limited v Ecobank Kenya Limited & another*(supra), where the Court of Appeal cited the case of *Steel & Petrol (EA) Ltd v Uganda Sugar Factory Ltd.* [1970] EA 141, Spry, JA stated the principle as follows:

“An appellate court will not interfere with an assessment of costs by a taxing officer, unless the taxing officer has misdirected himself in a matter of principle, but if the quantum of an assessment is manifestly extravagant, a misdirection of principle may be a necessary inference.”

20. In this instant case, the taxing master (Hon. Margaret Kyallo) in her ruling dated 24th September 2024, taxed the Claimant/Respondent’s Party to Party Bill of Costs dated 4th August, 2023 at Kshs.206,375/=. The Respondent/Applicant did not make any attempt to file the objection as set out in Rule 11 of the Advocates Remuneration Order. There is no evidence on record that the Respondent/Applicant objected to the Party to Party Bill of Costs and went ahead to file the reference which is before this Honourable Court.

21. Paragraph 50 of the Advocates Remuneration Order provides as follows:

“Subject to paragraphs 22 and 58 and to any order of the court in the particular case, a bill of costs in proceedings in the High Court shall be taxable in accordance with Schedule 6 and, unless the court has made an order under paragraph 50A, where Schedule 6 provides a higher and a lower scale the costs shall be taxed in accordance with the lower scale.”

22. In this particular instant, the items which were contested by the Respondent/Applicant stated that they were not scaled in accordance with Schedule 4 of the Advocates Remuneration Order. This Honourable Court has looked at Schedule 4 of the Advocates Remuneration Order and confirms that the said schedule deals with trademarks as Schedule 6 deals with costs of the High Court (ELRC). Looking at the disputed items that is items 1,2,3(a, b, c, d, c, f, g, h, i, j, k, l, m, n, o, p, q), Items 4,5(a, b, c, d and e) and Items 6, and 7B (a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p, q, r, s), and Items 8,9A,9B and 9C were drawn to scale as the matter was not contested by the Respondent/Applicant. Also, the decretal sum awarded by the Honourable Court (Nderitu J) and the Certificate of Costs are two different amounts awarded by the court and taxing officer.

23. The Applicant did not raise any objection to the bill of costs from when it was delivered on 24th September 2024 until 10th April 2025 when he filed this objection. As a brief background on 1st April 2024 the Applicant had raised a preliminary objection where he had asserted that the bill of costs was incompetent. The court allowed the bill to proceed as presented on 2nd July 2024. The Applicant did not appeal that ruling.



24. The court noted the respective parties did not file their submissions. Earlier on the Applicant had not opposed the bill of costs and even in his chamber summons application the objection he raises is that the bill was taxed as a lumpsum at Kshs.206,375/= as against an award of Kshs.313,501.30 of the main claim.
25. The award may not be commensurate to the bill of costs depending on the services rendered upto the determination of the case. Since the Applicant has not indicated the specific items he is opposing the court funds the application is not proved on balance of probability.
26. This Honourable Court is of the view that the taxation principles were followed as set out in Premchand Raichand Ltd Another v Quarry services of East Africa Ltd and Another (Supra), as the Bill of Costs was drawn to scale. The decretal sum awarded by the Honourable Court (Justice Nderitu), and the certificate of costs taxed by Hon. Margaret Kyalo are two distinct amounts, as the decretal sum is awarded by the main court as per the pleadings where the case emanated, while the certificate of costs is awarded by the taxing officer as per services rendered when the matter is concluded and is in accordance to the Advocates Remuneration Act.
27. Flowing from the foregoing, this Honourable Court finds the application to review or to set aside the taxed bill of costs lacks merit and is dismissed.
28. Each party will meet their respective costs of the application.
Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 2ND DAY OF JULY, 2025.

ANNA NGIBUINI MWAURE

JUDGE

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of *the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

