



**Namai v National Bank of Kenya Limited (Petition E039 of 2023)  
[2024] KEELRC 2528 (KLR) (18 October 2024) (Ruling)**

Neutral citation: [2024] KEELRC 2528 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
PETITION E039 OF 2023**

**B ONGAYA, J**

**OCTOBER 18, 2024**

**PETITION NO. E039 OF 2023**

**IN THE MATTER OF THE ALLEGED VIOLATION OF ARTICLES  
41, 47 AND 50 OF THE CONSTITUTION OF KENYA 2010;**

**AND**

**IN THE MATTER OF THE EMPLOYMENT AND LABOUR RELATIONS COURT ACT;**

**AND**

**IN THE MATTER OF THE EMPLOYMENT ACT, 2007;**

**AND**

**IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTIONS ACT**

**BETWEEN**

**VINCENT NAMAI ..... APPLICANT**

**AND**

**NATIONAL BANK OF KENYA LIMITED ..... RESPONDENT**

**RULING**

1. The petitioner filed the chamber summons dated 06.09.2024 through M/S J.A. Guserwa & Company Advocates seeking to be heard for orders:



- a. That the Honourable Court be pleased to review and/or set aside the decision of the Taxing Officer delivered on the 26<sup>th</sup> of August, 2024 certifying costs due to the petitioner/applicant from the respondent at Kshs. 382,385/=.
  - b. That the cost of this application be in the cause.
2. The Application is made on the grounds that:
- a. The Judgment in the matter was delivered on the 22<sup>nd</sup> of June, 2023 in favour of the petitioner (applicant) in the sum of Kshs. 5,000,000/= with costs of the suit.
  - b. The Taxing Officer delivered his Ruling on the 26<sup>th</sup> of August, 2024 and taxed the Party and Party Bill of Costs dated 19<sup>th</sup> April 2024 in the sum of Kshs. 382,385/= in respect of the judgment sum of Kshs. 5,000,000/=.
  - c. The applicant being aggrieved by the ruling of the Taxing Officer, objects the decision and moves the Honourable Court to review the ruling of the Taxing Officer.
  - d. It is in the interest of justice that the prayers sought should be granted.
3. In the Supporting Affidavit dated 06.09.2024, the applicant averred that the Respondent, in response to the Party and Party Bill of Costs, filed written submissions in opposition to the sum of Kshs. 1,682,385/= as claimed in the Bill. The applicant argued that the taxed Party and Party Bill of Costs in the sum of Kshs. 382,385/= was very low and not according to the scale provided in the Advocates (Remuneration) Order, 1962, and therefore in error.
4. The applicant asserted that he objects the Ruling dated 26.08.2024 on the following grounds:
- i. The Taxing Officer did not explain the basis of taxing the instruction fees at Kshs. 200,000/=.
  - ii. The Taxing Officer did not apply the decretal amount of Kshs. 5,000,000/= in calculating the instruction fees thereby falling into error.
  - iii. The Taxing Officer did not consider that the scale provides for instruction fees at Kshs. 505,000/= and getting up fees at Kshs. 168,333.33/=.
5. It was the applicant's averment that his Advocates on record wrote a letter dated 26.08.2024 addressed to the Taxing Officer seeking reasons for the low award of Kshs. 382,385/= but have not received any response. He therefore seeks that the orders sought herein through the Reference be granted as prayed in the interests of justice.
6. There was no response to the application by the respondent.
7. The Court has considered the application. It is not opposed at all.

The application is determined with orders:

- a. The decision of the Taxing Officer delivered on the 26<sup>th</sup> of August, 2024 certifying costs due to the petitioner/applicant from the respondent at Kshs. 382,385/= is set aside.
- b. The bill be re-taxed taking into account due submissions and applicable law as to the taxation.
- c. Respondent to pay costs of the application.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS FRIDAY 18<sup>TH</sup> OCTOBER 2024.**



**BYRAM ONGAYA  
PRINCIPAL JUDGE**

