



**Uzuri Foods Limited v Maina (Miscellaneous Application
E043 of 2023) [2023] KEELRC 1387 (KLR) (31 May 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1387 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS APPLICATION E043 OF 2023**

J RIKA, J

MAY 31, 2023

BETWEEN

UZURI FOODS LIMITED APPLICANT

AND

PAUL GATIMU MAINA RESPONDENT

RULING

1. The Applicant has applied, through the Chamber Summons dated February 28, 2023 for orders that:
b] there be a stay of execution of the Taxing Officer's Ruling, delivered on February 21, 2023, certifying costs due to the Respondent from the Applicant, at Kshs 203,075; and c] that the Court reviews and / or sets aside the decision of the Taxing Officer [above].
2. The Application is founded on the Affidavit of the Applicant's Human Resource Manager Quinter Ouma, sworn on February 28, 2023.
3. Ouma states that Judgment was delivered in favour of the Respondent in the sum of Kshs 198,578, together with costs and interest, on May 5, 2022.
4. The Party and Party Bill of Costs was initially taxed at Kshs 177,650.
5. The Applicant lodged a reference in Miscellaneous Application No E150 of 2022, where the Court set aside the Taxing Officer's decision on November 24, 2022.
6. Taxation was done for a second time, and the Taxing Master allowed the Bill of Costs at Kshs 203,075.
7. Ouma states in the fresh reference, that the sum taxed at Kshs 203,075 is excessive. The Taxing Officer did not explain why the sum was increased from the initial sum of Kshs 177,650. The decretal sum was not considered in the second taxation.



8. The Applicant submits that it is settled law, that the Court shall not interfere with the decision of the Taxing Officer, except where the Applicant demonstrates that there was an error in principle, or the quantum was manifestly excessive or too low, that it amounts to an injustice; the sum of Kshs 203,075 is manifestly excessive compared to the first sum; no reason was given for the variance; the enhancement of the taxed sum was in breach of Rules of Natural Justice; and the Court is obliged to interfere with the second taxation.
9. The Respondent relies on his Replying Affidavit, sworn on March 7, 2023. He states that reasons were stated by the Taxing Master for her decision, in the Ruling sought to be set aside. No specific taxed item, has been challenged by the Applicant. The Applicant does not state to what extent, the Certificate of Costs should be reviewed. The Application is brought in bad faith, to delay execution of decree. The Respondent submits that the Bill of Costs was taxed in accordance with Schedule 6 [b] of the *Advocates Remuneration [Amendment] Order, 2014*.

The Court Finds: -

10. The Applicant's main grievance is that the first Bill of Costs was taxed at Kshs 177, 650 by the same Taxing Master, and there is no way, the second Bill of Costs could have been taxed at a higher amount of Kshs 203,075
11. The Applicant does not point to any item in the second taxation, that was not taxed in accordance with the *Advocates Remuneration [Amendment] Order 2014*.
12. The initial taxation having been set aside upon the Application of the Applicant, the Taxing Master was not bound to tax the Bill afresh, at an amount less or equivalent to what she had taxed. It was taxation de novo.
13. The Ruling dated February 21, 2023, states that the initial Ruling was set aside, because the Taxing Master had not given reasons, in taxing the Bill at Kshs 177,650.
14. This default was corrected in the second taxation, which granted costs at a total of Kshs 203,075. The Taxing Officer gives specific reasons, on each taxed item. The Applicant has not faulted any of the reasons, but highlights that the earlier taxation was for a lesser amount of Kshs 177 650. This premise is misconceived.
15. The Applicant has not shown to this Court, that there was an error in principle, or that the quantum was manifestly excessive or too low, in the second taxation, that it amounts to an injustice. There must be an end to litigation. The reference is declined, with costs to the Respondent.

DATED, SIGNED AND RELEASED TO THE PARTIES VIA E-MAIL, AT NAIROBI, UNDER PRACTICE DIRECTION NO. 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 31ST DAY OF MAY 2023.

James Rika

Judge

