



**Khalwale & Co Advocates v Devyan Food Industries formerly Sameer  
Agriculture & Kivestock Company Limited (Miscellaneous Application  
E053 of 2021) [2022] KEELRC 3860 (KLR) (16 June 2022) (Ruling)**

Neutral citation: [2022] KEELRC 3860 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E053 OF 2021  
NZIOKI WA MAKAU, J  
JUNE 16, 2022**

**BETWEEN**

**KHALWALE & CO ADVOCATES ..... APPLICANT**

**AND**

**DEVYAN FOOD INDUSTRIES FORMERLY SAMEER AGRICULTURE &  
KIVESTOCK COMPANY LIMITED ..... RESPONDENT**

**RULING**

1. Before me for determination is the respondent/applicant's Notice of Motion dated March 18, 2022. The application is premised on the grounds on the face of it and it seeks in the main the stay of taxation of the bill of costs in taxation in Miscellaneous Application no E052 of 2021, Miscellaneous Application no E053 of 2021 and Miscellaneous Application no E054 of 2021, Miscellaneous Application No. E055 of 2021, Miscellaneous Application no E056 of 2021, Miscellaneous Application no E057 of 2021 Miscellaneous Application no E058 of 2021, Miscellaneous Application no E060 of 2021 pending the hearing of the motion. The application is supported by the affidavit of Paul Maina advocate.
2. The claimant/respondent is opposed and filed a replying affidavit sworn by Wilberforce Khalwale advocate. He deposes that the application is vexatious and an abuse of the court process as there have been two similar applications which the court has dismissed.
3. The motion before the court is one that seeks the exact same orders as the one that precipitated the court's ruling of November 18, 2021. The Notice of Motion dated March 18, 2022 is an abuse of the court process. Litigation must come to an end. The court rendered itself in a ruling, the respondent sought review which was not granted and now this. The motion being frivolous and vexatious and otherwise an abuse of the court process is dismissed with costs on the higher scale. Further, the court directs that the taxation of the cases being Miscellaneous Application no E052 of 2021, Miscellaneous



Application no E053 of 2021 and Miscellaneous Application no E054 of 2021, Miscellaneous Application no E055 of 2021, Miscellaneous Application no E056 of 2021, Miscellaneous Application no E057 of 2021 Miscellaneous Application no E058 of 2021, Miscellaneous Application no E060 of 2021 do proceed next week on June 22, 2022 before the deputy registrar, the taxing master of the court. No applications for stay to be filed as the issue is now *res judicata* having been adjudicated upon ad nauseam.

It is so ordered.

**DATED AND DELIVERED AT NAIROBI THIS 16<sup>TH</sup> DAY OF JUNE 2022**

**Nzioki wa Makau**

**JUDGE**

