

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT NYERI

CAUSE 166 OF 2015

(As Consolidated with Cause No's. 167, 168, 169, 170, 171, 172, 173 & 174 all of 2015)

ALI KULO GODANA & 8 OTHERS.....CLAIMANT/APPLICANTS

VERSUS

JIANGXI ZHONGMEI ENGINEERING

CONSTRUCTION COMPANY LIMITED.....RESPONDENT

RULING

1. The Notice of Motion application before me is the Claimant/Applicant's application dated 11th October 2018 and filed on 25th October 2018 seeking to have the matters referred back to the Taxing Master for re-taxation. The grounds for the motion are the failure to award the instructions fees, service fees, court attendance fees, and disbursements separately prior to the order of consolidation as ordered by the court. The motion is unopposed by the Respondent who though served never filed any documents in opposition.

2. The motion before the court is supposed to have been filed as a reference against the taxation of the learned Taxing Master and should have been filed within 14 days of the delivery of the Ruling of the Taxing Master which was issued on 18th January 2018. The motion filed on 25th October 2018 is hopelessly out of time and though the grounds for the motion are the failure to award the instructions fees, service fees, court attendance fees, and disbursements separately prior to the order of consolidation as ordered by the court, there is nothing this court can do as the window was shut by effluxion of time. It is not as if the Applicants were lay people or that there is a ground for re-taxing the matters. No reasons are advanced as to why there was such a monumental delay in seeking interposition against the decision of the Taxing Master given in January 2018 by the learned Taxing Master herein. The Applicant's counsel failed to adhere to the rules and keeping to the timelines for a reference. The motion is therefore fit only for dismissal. As it was unopposed there is no order for costs.

It is so ordered.

Dated and delivered at Nyeri this 13th day of December 2018

Nzioki wa Makau

JUDGE