



Kiragu Wathuta & Co Advocates v Kang'ethe (Sued on her behalf and as the legal representative of the Estate of Samuel Mwatha Kang'ethe) (Miscellaneous Civil Application E207 of 2024) [2024] KEELC 13439 (KLR) (7 November 2024) (Ruling)

Neutral citation: [2024] KEELC 13439 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
MISCELLANEOUS CIVIL APPLICATION E207 OF 2024
JO MBOYA, J
NOVEMBER 7, 2024**

BETWEEN

KIRAGU WATHUTA & CO ADVOCATES DECREE HOLDER

AND

MARY KANG'ETHE (SUED ON HER BEHALF AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF SAMUEL MWATHA KANG'ETHE) JUDGMENT DEBTOR

RULING

Introduction and Background

1. The Client/Applicant has approached the court vide Notice of Motion Application dated 1st July 2024 brought pursuant to the Provisions of Section 51[2] of the *Advocates Act*; Rule 11 of the Advocates Remuneration Order and Article 50 of the *Constitution* 2010 and wherein the Applicant has sought for the following reliefs;
 - i. That this Application be certified as urgent
 - ii. That this Honourable Court be pleased to stay the Garnishee Order Nisi granted on 20th June 2024 pending the hearing and determination of this Application.
 - iii. That this Honourable Court be pleased to set aside certificate of Taxation dated 23rd October 2023 and all consequential orders.
 - iv. That this Honourable Court be pleased to issue orders remitting the Bill of Costs back for taxation before the Deputy Registrar other than Hon. Vincent Kiplangat.



- v. That this Honourable Court be pleased to issue an order for cross examination of Mercy Kemboi, the court process server who swore the Affidavits of service. on a date to be determined by the court.
 - vi. That this Honourable Court be pleased to issue any other orders.
 - vii. That the costs of this Application be provided for.
2. The instant Application is anchored on various grounds which have been enumerated in the body thereof. Furthermore, the Application is supported by the Affidavit of Mary Kangethe [deponent] sworn on 1st July 2024 and to which the deponent has annexed a bundle of documents namely, copies of affidavit of service.
 3. Upon being served with the instant Application, the Respondent/Advocate filed a Replying Affidavit sworn on 15th July 2024 and to which the Respondent has annexed six set of documents. At any rate, the Respondent has contended that the subject Application is not only misconceived but same is legally untenable.
 4. The Application beforehand came up for hearing on 23rd July 2024 whereupon the advocates for the parties covenanted to canvass and dispose of the Application by way of written submissions. Besides, the advocates for the parties also agreed that the Respondent herein was to procure the attendance of one Mercy Kemboi, process server for purposes of cross examination of the basis of [sic] the affidavit of service sworn by herself.
 5. Thereafter, the court set down the matter for the intended cross examination of the process server. Nevertheless, the Respondent/Advocate was unable to procure the attendance of the said process server and owing to the failure to do so, the matter herein was ordered to proceed in the manner hitherto agreed upon.
 6. First forward, the Applicant herein, filed written submissions dated 18th September 2024 whereas the Respondent filed written submissions dated 18th October 2024, respectively. For good measure, the two sets of written submissions form part of the record of the court.

Parties' Submissions

a. Applicant's Submissions

7. The Applicant filed Written Submissions dated 18th September 2024 and wherein the Applicant adopted and reiterated the grounds at the foot of the Application as well as the averments contained in the body of the supporting affidavit. Furthermore, the Applicant has thereafter ventured forward and highlighted five salient issues for determination by the court.
8. Firstly, learned counsel for the Applicant has submitted that the impugned advocate client bill of costs dated 22nd September 2022 filed by the Respondent herein was never served upon the client/Applicant. In this regard, it has been contended that insofar as the bill of costs was not served upon the Applicant/Client, the Applicant/Client was therefore not privy nor knowledgeable of the pendency of the instant proceedings.
9. Additionally, it has been contended that the affidavit of service which were filed by the Respondent/Advocate, are erroneous, misleading and constitute a deliberate misrepresentation of facts. In this regard, learned counsel for the Applicant has submitted that the impugned affidavit of service does constitutes perjury.



10. Secondly, learned counsel for the Applicant has submitted that owing to the contestation touching on and concerning service of the impugned bill of costs, the Applicant sought to have the process server brought to court for purposes of cross examination. In any event, the court proceeded to and made an order for the process server, namely Mercy Kemboi to be availed in court for purposes of cross examination.
11. Nevertheless, despite the order of the court which directed the respondent to procure and bring forth the attendance of the process server for purposes of cross examination, the Respondent herein failed to procure the attendance of the process server. In this regard, learned counsel for the Client/Applicant has contended that the failure to bring forth the process server has denied and deprived the Applicant of the opportunity to ascertain the veracity of the impugned affidavits of service.
12. At any rate, learned counsel for the Applicant has submitted that the failure by the Respondent to procure the attendance of the process server also provides a reasonable basis for the court to make an adverse inference against the Respondent herein.
13. To this end, learned counsel for the Applicant has cited and referenced the decision in Samuel Onyango Ong'ou v IEBC & 2 Others [2017] eKLR and Tuva v Mwangovia [Environment & Land Case 314 of 2017] [2023] KEELC 19131 [KLR], respectively.
14. Thirdly, learned counsel for the Applicant has submitted that to the extent that no service was ever effected on the Applicant, the resultant proceedings and orders arising from the instant matter are therefore void and a nullity ab initio. In particular, it has been contended that service of court process is integral to the due process and hence where service is not effected then no legitimate order can arise and/or ensue. In this regard, learned counsel for the Applicant has cited and reference the provisions of Article 50 of the Constitution 2010.
15. Fourthly, learned counsel for the Applicant has submitted that the Applicant herein has a right to fair hearing. In any event, it has been contended that the right to fair hearing envisages due notice and service of the court process. Nevertheless, in respect of the instant matter, it has been contended that the Applicant was not afforded the opportunity to partake of the right to fair hearing.
16. Fifthly, learned counsel for the Applicant has submitted that where a court of law finds and comes to the conclusion that there was no service of the court process, then it behoves the court to impugn the proceedings and to set aside the resultant orders. In addition, it has been contended that where the impugned orders arose from nonservice, the court ought to set aside the orders as a matter of right and not otherwise.
17. To underpin the submissions that orders arising from nonservice must be set aside as of right, learned counsel for the Applicant has cited and reference various decisions including Mwala v Kenya Bureau and Mathews v Masika [Civil Case E180 of 2022] [2022] KEHC 12194, respectively.
18. Finally, learned counsel for the Applicant has submitted that the court has a duty and obligation to ensure that a party, the Applicant not excepted is afforded the requisite opportunity to be heard. In any event, it has been contended that where a party is denied and/or deprived of the opportunity to be heard, the resultant order constitutes a breach and/or violation of the rule of natural justice.
19. In such a situation, learned counsel for the Applicant has submitted that such proceedings and orders must therefore be set aside and/or discharge.
20. Based on the foregoing, learned counsel for the Applicant has therefore implored the court to find and hold that the Applicant herein has established and demonstrated sufficient cause to warrant the



intervention of the court. In this regard, the court has been invited to find and hold that the Application beforehand is meritorious.

b. Respondent's Submissions

21. The Respondent filed Written Submissions dated 18th October 2024 and in respect of which the Respondent has adopted and reiterated the contents of the replying affidavit sworn on 15th July 2024 and thereafter proceeded to and highlighted five salient issues for consideration and determination by the court.
22. First and foremost, learned counsel for the Respondent has submitted that the Respondent herein indeed filed an advocate client bill of costs and which bill of costs was subsequently taxed by the taxing officer. Furthermore, it has been contended that upon the taxation of the bill of costs, the taxing officer ventured forward and issued a certificate of taxation dated 23rd October 2023.
23. Other than the foregoing, learned counsel for the Respondent has submitted that the said certificate of taxation was thereafter adopted and constituted as a judgment of the court. In this regard, learned counsel for the Respondent has cited and reference the judgment of the court rendered on 6th May 2024.
24. Arising from the foregoing, learned counsel for the Respondent has therefore submitted that following the adoption of the certificate of costs as judgment of court, the certificate of taxation ceased to exist as an independent document. In this regard, it has been contended that there is no certificate of taxation which is in existence and which is capable of being set aside and/or varied.
25. Simply put, learned counsel for the Respondent has therefore contended that the Application before the court is competent, misconceived and legally untenable.
26. To buttress the foregoing submissions, learned counsel for the Respondent has cited the decision in *Elijah Njuguna Njuki v Peter Muriu Njunguna, Stanley Karanja Njoki, Gladys Wangui Njoki, Rebeca Wambui Njoki & Agnes Njeri Kiragu* [Misc. Application E007 of 2021] [2021] KEELC 201 [KLR] and *Musyoka & Wambua v Rustam Hira* [2006] eKLR and *Vincent Choka v Local Authorities Provident Fund Board [Lapfund]* [2020] eKLR, respectively.
27. Secondly, learned counsel for the Respondent has submitted that the Applicant herein has neither established nor demonstrated sufficient cause and/or basis to warrant the setting aside and/or variation of the certificate of taxation.
28. In particular, learned counsel for the Respondent has submitted that it was incumbent upon the Applicant to place before the court plausible and credible material to demonstrate the existence of an error of principle which affects the certificate of taxation. However, counsel has contended that no such error or otherwise has been proven.
29. To vindicate the submissions that the certificate of taxation can only be set aside and/or varied in limited instances where an error of principle is shown and/or established, learned counsel for the Respondent has cited and referenced the decision in *Outa v Odoyo & 3 Others SC Petition No. 6 of 2014*; [2023] KESC 75 [KLR] and *Non-Governmental Organization Coordination Board v EG & 5 Others* [Petition [Application] No. 16 of 2019] [2023] KESC 102 [KLR], respectively.
30. Thirdly, learned counsel for the Respondent has submitted that the Applicant herein was variously served with the bill of costs and other related court processes. In this regard, learned counsel for the Respondent has adverted to and highlighted the various affidavit of service which were filed and which formed part of the record of the court. For good measure, it has been contended that the Applicant



herein has neither tendered nor availed to the court any credible material to controvert the contents of the affidavits of service.

31. On the other hand, it has been submitted that even though the court issued an order for the production of the process server, namely Mercy Kemboy, for purposes of cross examination, the said process server [Mercy Kemboy] was not easily traceable. In any event, it has been pointed out that the said process server left the employment of the Respondent's Advocate and hence the difficulty in tracing the named process server.
32. Arising from the fact that the Respondent could not trace the process server, learned counsel for the Respondent has therefore submitted that it was not therefore possible for the Respondent to procure the attendance and to avail the process server for cross examination.
33. To the extent that it was not possible to procure the attendance of the process server, learned counsel for the process server has therefore submitted that the failure to procure the attendance of the process server cannot be utilized to have found a basis for making of an adverse inference against the Respondent herein.
34. At any rate, it has been submitted that the various affidavit of service denotes service of the court process upon the Applicant. In this regard, the court has been implored to take into account the affidavit of service and to presume service in accordance with the decision in the case of Shadrac Arap Baiwo v Bodi Bach [1987] eKLR.
35. Fourthly, learned counsel for the Respondent has submitted that any party the Applicant herein not excepted who seeks to challenge a certificate of taxation is called upon to comply with the established provisions of the law. In this regard, it has been submitted that the Applicant herein ought to have filed a reference in accordance with the provisions of Rule 11 of the Advocates Remuneration Order.
36. However, learned counsel for the Respondent has submitted that instead of filing the requisite reference, the Applicant herein has ventured to innovate own style of approaching the court. In this respect, it has been submitted that the entire Application before the court is therefore invalid.
37. To this end, learned counsel for the Respondent has cited and referenced various decisions including Charo v Omagwa Angima & Co [Misc Application 9A of 2010] [2022] KEELC 13310 [KLR], Nicholas Kiptoo Arap Korir Salat v IEBC & 6 Others [2013]eKLR and Elijah Njuguna Njuki v Peter Muriu Njunguna, Stanley Karanja Njoki, Gladys Wangui Njoki, Rebeca Wambui Njoki & Agnes Njeri Kiragu [Misc. Application E007 of 2021] [2021] KEELC 201 [KLR] and Musyoka & Wambua v Rustam Hira [2006]eKLR and Vincent Choka v Local Authorities Provident Fund Board [Lapfund] [2020]eKLR, respectively.
38. Finally, learned counsel for the Respondent has submitted that the instant Application has been filed with unreasonable and inordinate delay, which delay has neither been accounted for nor explained. In particular, it has been contended that the certificate of taxation which is sought to be set aside was issued on the 23rd October 2023 yet the Application beforehand was not filed until the 1st July 2024.
39. To this end, learned counsel for the Respondent has submitted that it was incumbent upon the Applicant to account for the delay in the filing of the Application. However, it has been posited that no explanation has been tendered and/or availed to the court to underpin the delay.
40. Arising from the foregoing, it has therefore been contended that the Application beforehand ought to fail on the basis of inordinate delay.



41. To underscore the submissions based on inordinate delay, learned counsel for the Respondent has cited and referenced the decision in the case of *Rakesh Rajpal v Paula Giacosa* [2022] eKLR and *Utalii Transport & 3 Others v NIC Bank Ltd & Another* [2014] eKLR, respectively.
42. Flowing from the foregoing, learned counsel for the Respondent has therefore invited the court to find and hold that the subject Application is premature, misconceived and legally untenable. In this regard, the court has been implored to dismiss the Application with costs.

Issues for Determination

43. Having reviewed the Application beforehand and the response thereto and upon consideration of the written submissions, the following issues do crystalize and are thus worthy of determination;
 - i. Whether the court has the requisite jurisdiction to entertain the subject Application or otherwise.
 - ii. Whether the instant Application is competent and legally tenable.

Analysis and Determination

Issue Number 1 Whether the court has the requisite jurisdiction to entertain the subject Application or otherwise.

44. The Application beforehand seeks two primary reliefs. In particular, the Application seeks for an order setting aside the certificate of taxation dated 23rd October 2023 and thereafter remittance of the advocate client bill of costs for purposes of re-taxation by the deputy registrar.
45. Taking into account the nature of the reliefs sought in the body of the Application, there is no gainsaying that the Applicant is aggrieved by the impugned certificate of taxation and hence same [Applicant] is seeking to have the certificate of taxation set aside and/or quashed.
46. Given the nature of reliefs that colour the instant Application, the question that does come to the fore relates the manner in which an Applicant, the current Applicant not excepted is called upon to approach the jurisdiction of the court. Suffice it to point out that any Applicant, the current Applicant not excepted, who is keen to approach the jurisdiction of the court with a view to impugning a certificate of taxation, is called upon to file a reference and not otherwise.
47. Instructively, the Applicant is called upon to abide by and/or comply with the provisions of Rule 11 of the Advocates Remuneration Order. Notably, the provisions of Rule 11 [supra] stipulate and provides as hereunder;

“ 11

- (1) Should any party object to the decision of the taxing officer, he may within fourteen days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.
- (2) The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a Judge by chamber summons, which shall be served on all the parties concerned, setting out the grounds of his objection.



- (3) Any person aggrieved by the decision of the Judge upon any objection referred to such Judge under subparagraph (2) may, with the leave of the Judge but not otherwise, appeal to the Court of Appeal.
- (4) The High Court shall have power in its discretion by order to enlarge the time fixed by subparagraph (1) or subparagraph (2) for the taking of any step; Application for such an order may be made by chamber summons upon giving to every other interested party not less than three clear days' notice in writing or as the court may direct, and may be so made notwithstanding that the time sought to be enlarged may have already expired.”
48. The provisions of Rule 11 [supra] which have been reproduced in the preceding paragraphs, clearly delineates and demarcates the manner in which a certificate of taxation is to be challenged. To this end, there is no gainsaying that the Applicant was duty bound to abide by and/or comply with the express provisions of Rule 11.
49. The Applicant may very well be heard to argue that a substantial amount of time had lapsed, however, it is instructive to note that the provisions of Rule 11 [4] of the Advocates Remuneration Order provides a window for purposes of extension of time. In this regard, all the Applicant was called upon to do was to demonstrate sufficient cause and the reasons, if any for the delay.
50. For good measure, the lapse of time and the contention that the Applicant was not served, does not provide any lawful excuse for not complying with the express provisions of the law.
51. At any rate, it is trite and established that where the law provides a specific mechanism for the doing of an act, then it is incumbent upon every person, the Applicant herein not expected to comply with the law. Furthermore, it is common knowledge that ignorance of the law is no defence.
52. To this end, it is instructive to take cognizance of the succinct holding of the court of appeal in the case of Speaker of the National Assembly v Karume (Civil Application 92 of 1992) [1992] KECA 42 (KLR) (29 May 1992) (Ruling), where the court held as hereunder;
15. In our view, there is considerable merit in the submission that where there is a clear procedure for the redress of any particular grievance prescribed by the Constitution or an Act of Parliament, that procedure should be strictly followed. We observe without expressing a concluded view that order 53 of the Civil Procedure Rules cannot oust clear constitutional and statutory provisions.
53. the necessity to comply with set down and established procedure which governs a particular matter was also elaborated by the supreme court in the case of Moses Mwigigi v IEBC [2016] eKLR, where the court stated and held thus;
65. This Court has on a number of occasions remarked upon the importance of rules of procedure, in the conduct of litigation. In many cases, procedure is so closely intertwined with the substance of a case, that it befits not the attribute of mere technicality. The conventional wisdom, indeed, is that procedure is the handmaiden of justice. Where a procedural motion bears the very ingredients of just determination, and yet it is overlooked by a litigant, the Court would not hesitate to declare the attendant pleadings incompetent.



54. Likewise, the importance of procedure was also reiterated in the case of *Patricia Cherotich Sawe v Independent Electoral & Boundaries Commission (IEBC), United Republican Party (URP), Rose Kisama, Naum Chelagat & Cheruiyot Maritim (Petition 8 of 2014)* [2015] KESC 7 (KLR) (Civ) (22 July 2015) (Ruling), where the court held as hereunder;
- (31) Although the appellant involves the principal of the prevalence of substance over form, this Court did signal in *Law Society of Kenya v. The Centre for Human Rights & Democracy & 12 Others, Petition No. 14 of 2013*, that “Article 159(2) (d) of the *Constitution* is not a panacea for all procedural shortfalls.” Not all procedural deficiencies can be remedied by Article 159; and such is clearly the case, where the procedural step in question is a jurisdictional prerequisite.
55. Finally, it is also imperative to underscore that the jurisdiction of a court to impugn, vary and/or set aside a certificate of taxation, like the one beforehand can only arise/accrue where an Applicant has indeed complied with the provisions of Rule 11[1] of the Advocates Remuneration Order which underpins the issuance of and service of notice of objection to taxation.
56. The significance of the notice of objection to taxation was highlighted by the court of appeal in the case of *Machira & Co. Advocates v Arthur K. Magugu & another (Civil Appeal 199 of 2002)* [2012] KECA 245 (KLR) (2 March 2012) (Judgment), where the court stated thus;
12. Sub-rule (1) requires the party objecting to give notice in writing within 14 days “of the items of taxation to which he objects.” As the trial judge correctly found, the Respondents notice of 1st August 2001 did not comply with that provision. It did not specify the items objected to so that the taxing officer could give his reasons on them.
13. As we have pointed out the intendment of the Rules Committee in providing for objections to bills of costs to be dealt with by references and not appeals or reviews was expedition. If vague notices are given taxing officers might be forced to give their reasons for their taxation of each item including even those not objected to. That would of course defeat the purpose of that expeditious procedure. Having not specified the items objected to and sought reasons for their taxation, the Respondents notice of 1st August 2001 was fatally defective. It follows that the Respondents reference based on it was incompetent and we agree with counsel for the Appellant that it should have been struck out.
57. From the foregoing analysis, it is my finding and holding that the jurisdiction of this court has been improperly invoked. To the extent that the jurisdiction of the court has been improperly invoked, this court cannot thus assume jurisdiction and entertain a matter that is invalid ab initio.

Issue Number 2 Whether the instant Application is competent and legally tenable.

58. Other than the question of jurisdiction which the court has engaged with and addressed in the preceding paragraph, there is also the issue of whether the Application beforehand is competent and legally tenable.
59. To start with, the Application before the court specifically seeks to impugn the certificate of taxation issued on 23rd October 2023. The presupposition is that the said certificate of taxation remains alive and is therefore available for review, variation and/or setting aside.
60. Nevertheless, it is not lost on this court that upon the issuance of the impugned certificate of taxation, the Respondent/Advocate proceeded to and filed an Application seeking for the adoption of the certificate of taxation as judgment of the court. Instructively, the Application for adoption of the



certificate of costs as judgment was underpinned by the provisions of Section 51[2] of the *Advocates Act*, Chapter 16 Laws of Kenya.

61. Subsequently, the court proceeded to and rendered a ruling whereupon the certificate of taxation was adopted and constituted as a judgment of the court on 6th May 2024. To this end, it then means that the certificate of taxation ceased to exist as an-independent item.
62. To my mind, the moment the certificate of taxation was adopted as a judgment of the court, same [certificate of taxation] was submerged in the judgment. In this regard, one can no longer talk about a certificate of taxation issued on 23rd October 2023.
63. To underscore the foregoing exposition of the law, it suffices to cite and reference the holding in the case of *Vincent Chokaa t/a V. Chokaa & Co. Advocates v Local Authorities Provident Fund Board (Lapfund) (Miscellaneous Civil Application 36 of 2017)* [2020] KEHC 4908 (KLR) (11 March 2020) (Ruling), where the court found and held as hereunder;

It is at this point that the Client filed an Application dated 15th May 2019 seeking inter alia to set aside the Certificate of Taxation dated 25th January 2019 and have the bill of costs taxed afresh. In a ruling dated 15th August 2019, Majanja J. made the following observations on that Application;

“ 6. ... it is clear that the Client does not refer to or indeed challenge the judgment of this court entered against it on 18th February 2019. It appears both parties and indeed the court proceeded with the matter without regard to the judgment. A judgment constitutes a merger of all the issues in the proceedings and unless it is set aside, the court cannot permit a collateral attack on that judgment which is lawful and regular. I therefore find and hold that the Application dated 15th May 2019 is incompetent and is therefore struck out.

Since both parties proceeded on a misapprehension of the proceedings, I make no order as to costs. I however direct the Client to file an Application to set aside the judgment within twenty-one (21) days from the date hereof ...

64. Other than the foregoing, I beg to underscore that the Application beforehand has not seek to impugned and/or challenge the resultant judgment. Suffice it to point out that the judgment was entered in terms of Section 51[2] of the *Advocates Act*.
65. Furthermore, it is also not lost on this court that the entry of judgment in terms of the certificate of taxation concludes and terminates all issues pertaining to the question of costs. In any event, there is no provision under the *Advocates Act* which allows for the impeachment of the judgment entered in accordance with the certificate of taxation.
66. Be that as it may, it suffices to point out that the Application beforehand has not touched on the judgment of the court. In this regard, no argument can therefore be entertained as pertains to the judgment.
67. Arising from the foregoing, what becomes clear and apparent is that the Applicant is seeking to impugn and/or set aside a certificate of taxation which is non-existent in the eyes of the law. In this regard, the court is being treated to a charade.



68. Quite clearly, upon the adoption of the certificate of taxation as judgment of the court, same [certificate of taxation can no longer be extricated from the judgment and thereafter be dealt with as an independent item.
69. In my humble view, the Application by and on behalf of the Applicant is tantamount to asking for one to extricate baking flour which has already been submerged in hot water and thereafter baked into a loaf of bread. Surely, it is not legally tenable.
70. In view of the foregoing, my answer to issue number two is to the effect is that the Application by the Applicant is not only misconceived and incompetent, but same is legally untenable. Instructively, the Application seems to be asking the court to issue orders in vanity.

Conclusion

71. Despite the various arguments that were raised and highlighted by the Applicant including service of the bill of costs and the import of Article 50 of the *Constitution*, it suffices to point out that such issues could only be gone into and addressed if there was a valid court process and not otherwise.
72. To the extent that the Applicant herein chose to throw caution to the wind and thereafter approach the court in utter disregard of the law, the court must stand by the law and return a verdict that the entire Application is invalid.
73. At any rate, there is no gainsaying, that parties, the Applicant herein not excepted, cannot chose to disregard the established procedure provided and which underpins the jurisdiction of the court. When there is an infraction of the law then the Applicant must suffer the consequence as prescribed under the law.

Final Disposition

74. Consequently, and in the premises, the final orders that commend themselves to the court are as hereunder;
 - i. The Application dated 1st July 2024 is devoid of merits and same be and is hereby dismissed with costs.
 - ii. The costs of the Application be and are hereby assessed and certified in the sum of kes.25, 000/ = only.
75. It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 7TH DAY OF NOVEMBER 2024.

HON. JUSTICE OGUTTU MBOYA

JUDGE.

In the presence of:

Benson – court Assistant.

Mr. George Gitonga for the Applicant/Client

Mr. Kiragu Wathuta for the Respondent/Advocate

Mr. Lawson Ondieki for the Garnishee

