



County Government of Uasin Gishu v Chemoiyai T/A Chemoiyai & Company Advocates & another (Environment & Land Miscellaneous Case E007 of 2024) [2024] KEELC 13536 (KLR) (5 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13536 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT & LAND MISCELLANEOUS CASE E007 OF 2024
EO OBAGA, J
DECEMBER 5, 2024**

BETWEEN

COUNTY GOVERNMENT OF UASIN GISHU APPLICANT

AND

**GAD KIPKURUI CHEMOIYAI T/A CHEMOIYAI & COMPANY
ADVOCATES 1ST RESPONDENT**

PRIME BANK LIMITED 2ND RESPONDENT

RULING

1. This is a ruling in respect of a chamber summons dated 20.8.2024 in which the Applicant seeks the following orders: -
 - a. Spent
 - b. Spent
 - c. That the decision of the taxing officer as evidenced in the ruling delivered on 21st June, 2024 in the bill of costs dated 19th February, 2024 be set aside and taxed afresh by this honorable court.
 - d. That in the alternative, the Honourable court be pleased to order that the respondent's bill of costs be taxed afresh by another taxing master.
 - e. Cost be provided for.
2. The applicant contends that the taxing officer taxed the advocate/client bill of costs dated 19.8.2024 for certain items without proof of receipts from process servers; that there were no accompanying documents to the bill of costs contrary to order 21 rule 9A of the Civil Procedure Rules; that the award



had no supporting documents; that the award was excessive and that the applicant should have pursued the 2nd defendant for the costs.

3. The application was opposed through a replying affidavit sworn on 4.9.2024. The respondent contends that this court has no jurisdiction to entertain the reference as the applicant did not follow the provisions of the Advocates Remuneration Order in that there was no request for reasons as to why the taxing officer taxed the bill in the manner he did within the 14 days required and further that the Applicant did not file the reference within the 14 days prescribed by the rules.
4. The Respondent also states that the Applicant has not demonstrated that the taxing officer committed any error in principle to warrant the setting aside of the award and that the provisions of order 21 Rule 9A relied upon by the Applicant relates to the lower court while this is a matter in the superior court.
5. The Respondent further stated that the items which the Applicant complains of were not disbursements where receipts are required and that this court has power to call for the production of any documents deemed necessary.
6. I have considered the Applicant's application together with the opposition to the same by the Respondent. The jurisdiction of the court to deal with a reference is clearly spelt out under Rule 11(1) and (2) of the Advocates Remuneration Order. There is no evidence that the Applicant sought for reasons from the taxing officer. Whereas this omission may be forgiven as the reasons are clearly discernable from the ruling of the taxing officer, the Applicant did not file the reference within the 14 days provided under Rule 11(2) of the Advocates Remuneration Order.
7. The Applicant did not seek leave to file the reference out of time. The application was therefore clearly filed without following the rules. This is enough to dispose of the application but I will nevertheless move on to address the issue of whether the taxing officer committed any error of principle to warrant this court to interfere with the taxing officer's discretion.
8. The Applicant contends that the taxing officer's award was excessive. I have looked at the ruling of the taxing officer and do not see anything which the taxing officer awarded which was excessive. The taxing officer applied the provisions of the Advocates Remuneration Order of 2014 as regards Advocate/client bill of costs.
9. There were no disbursements charged which will have necessitated proof by way of receipts. What was sought in the bill were court attendances and service which did not require proof by way of receipts.
10. In the case of Kagurimi Kangethe & Co. Advocates – vs- O-lerai Nurseries Limited (2009) eKLR, it was held as follows:-

“An example of error of principle is where the costs allowed are so manifestly excessive as to justify an interference that the taxing officer acted on erroneous principles.”
11. The taxing officer applied the current legal principles as set out in the law. I therefore find that reference by the Applicant is devoid of merit. The same is dismissed with costs to the Respondent.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 5TH DAY OF DECEMBER, 2024.

E. OBAGA

JUDGE

In the virtual presence of;



Mr. Mathai for Mr. Kigamwa for Respondent.

Court Assistant –Laban

E. O. OBAGA

JUDGE

5th DECEMBER, 2024

