



REPUBLIC OF KENYA



**Imbali & 2 others v IEBC & 2 others (Miscellaneous Case
94 of 2023) [2025] KEHC 5605 (KLR) (29 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5605 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CASE 94 OF 2023
SC CHIRCHIR, J
APRIL 29, 2025**

BETWEEN

**CHARLES IMBENZI IMBALI 1ST APPLICANT
ONESMUS JOHN MMASI 2ND APPLICANT
DEVIES ASHIONO MUSAMIA 3RD APPLICANT**

AND

**IEBC 1ST RESPONDENT
ROSELYNE ANYANGO, (RETURNING OFFICER, IKOLOMANI
CONSITUENCY) 2ND RESPONDENT
ARCHEDEOUS LIYAYI LIKHAKHO 3RD RESPONDENT**

RULING

1. What is coming up for determination is the Applicant's Chamber Summons dated 20/6/2023. It is premised on paragraph (Sic) 11(2) of the Advocates (Remuneration) order and Article 150 & 159 of the constitution. It seeks orders as follows;
 1. Spent
 2. That pending the hearing and determination of this application t his Honourable Court be pleased to stay the execution of the Ruling on the taxation of the 3rd Respondent's bill of costs dated 9th March, 2023.
 3. That there be a stay of execution of the certificate of taxation arising out of the 3rd Respondent's bill of costs dated 9th March, 2023 pending the hearing and determination of the reference.



4. That this Honourable Court be pleased to set aside the ruling of the taxing master on the 3rd Respondent's Bill of Costs dated 9th March, 2023.
 5. That this Honourable Court be pleased to enlarge the time within which to file a reference against the decision of the taxing officer delivered on 3rd May, 2023.
 6. That the draft reference attached herewith be deemed as properly filed subject to payment of the requisite fees.
 7. That costs of this application be in the cause.
2. The application is opposed by the 3rd respondent, by way of grounds of opposition dated 23/6/2023.

The Applicant's case

3. The applicant has stated that the delay in filing the reference was due to the fact that one of the Applicants was out of the country and hence instructions could not be obtained immediately; that the bill of costs was taxed at Kshs. 2,027,000, and the Applicant's is aggrieved by the said outcome. It is also stated that the intended reference has high chance of success and, that the delay is excusable and not inordinate.

The 3rd Respondent's case

4. It is this respondent's case that the delay has been inordinate and that it has been overtaken by events; that it does not disclose any reasonable grounds upon which it can be sustained, that it is meant to merely delay the payments of costs; that it does not comply with the mandatory provisions of Rule 10 of the Advocates (Remuneration) order 2014.

Determination

5. The parties have filed submissions which I have considered. I have also considered the Application and the reply and the 3rd respondent's response.
6. Firstly, prayer 4 of the Application is misplaced. It does not belong in this application as it is seeking substantive order against the Ruling of the taxing orders yet this is supposed to be an Application for enlargement of time to file a reference.
7. Secondly although the Application refer to a draft reference no such draft has been attached to the application. On record are document that support or in relation to the present application only. There is no indication, and there is nothing on record to indicate under which suit was the Bill taxed. It is evident from the leadings that the taxation was not done in the present file. Thus, even if this court was to grant orders of stay, under what suit are the orders being stayed. How does an order that does not make any reference to any suit be enforced?
8. The Applicant has been made any effort to attach the ruling being challenged, as that would have given a bearing to this court on the Applicant's prayers.
9. Thus if this court was to consider the merit of this application it would be granting orders that would be of no effect as the order would not be in relation to any suit before the taxing master.
10. The applicants are being lazy and indolent. I take not of the fact that they are represented and there is no excuse for such obvious omissions. Courts are not in the business of issuing vain orders.



11. When a party approaches the court with such indolence, I consider it an act of abuse of the process and misuse of judicial time.
12. The application is incompetent. It is hereby struck out with costs to the 3rd Respondent.

DATED, SIGNED AND DELIVERED VIRTUALLY AT ISIOLO, THIS 29TH DAY OF APRIL, 2025

S. CHIRCHIR

JUDGE.

In the presence of :

Godwin Luyundi- Court Assistant

Mr. Mulama for the 3rd Respondent.

