



**Muchiri v Climate Pal (Miscellaneous Civil Application
E078 of 2024) [2025] KEHC 11255 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11255 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
MISCELLANEOUS CIVIL APPLICATION E078 OF 2024**

RM MWONGO, J

JULY 30, 2025

**IN THE MATTER OF TAXATION OF THE PARTY-TO-
PARTY BILL OF COSTS IN EMBU HCCA NO. E054 OF 2023**

BETWEEN

GIBSON MUKUNDI MUCHIRI APPLICANT

AND

CLIMATE PAL RESPONDENT

RULING

1. The applicant has filed chamber summons dated 08th October 2024 seeking the following orders:
 1. Spent;
 2. Spent;
 3. That the Honourable Court be pleased to reassess the respondent's bill of costs dated 08th April 2024 assessing the respondent's bill of costs; and
 4. That costs of this application be awarded to the applicant.
2. The application was supported by the grounds set out on its face and facts deposed in the supporting affidavit. These facts are that the taxing master failed to give reasons for her decision, thus, the assessed costs are excessive and reassessment is necessary. The applicant stated that he opposed the bill of costs through a replying affidavit but the taxing master assessed it at Kshs.47,150/-. Following taxation of the bill of costs, he wrote a notice of objection to the taxing master on 09th September 2024 seeking reasons for her decision. He said that it is necessary that the bill of costs be reassessed.



Grounds of Opposition

3. In opposition of the application, counsel for the respondent herein filed grounds of opposition in which she stated that the application is misconceived and targeted at denying the respondent its rights to the fees. That there is no pending appeal to the case and that the applicant's assertion that this was the case, is false. The applicant filed an appeal out of time without the leave of court, showing that he is bent on pursuing endless litigation to the respondent's disadvantage. The respondent stated that the objections raised by the applicant are unwarranted.

Parties' Submissions

4. The application was canvassed by way of written submissions.
5. The applicant submitted that the bill of costs assessment was excessive. That since the applicant was denied leave to appeal out of time, the respondent cannot charge Kshs.75,000/= for defending the appeal. He urged that the bill of costs should be taxed in accordance with section 77 of the Advocates Act.
6. The respondent submitted that the items contested by the applicant are baseless in law. It relied on the cases of Paul Gicheru T/A Gicheru & Co. Advocates v Kargua (K) Construction Co. Ltd (2008) eKLR and Milling Cooperation of Kenya (2009) v Francis Muriuki Muraguri t/a Lusoi Stores, Amuel Muchai Nuguna t/a Wamu Stores & Rahab Wambui t/a Wamu Stores [2020] KEHC 5818 (KLR). It maintained that no appeal was filed and there is no basis for giving reasons for taxation. It relied on Paragraph 1 of Schedule 6 of the Advocates Remuneration Order and argued that even if the application is found to have merit before the court, the respondent did instruct an advocate whose costs have been defined.

Issue for Determination

7. From the foregoing, the issue for determination is whether the application has merit.

Analysis and Determination

8. The respondent filed a bill of costs dated 08th April 2024. It was opposed through the applicant's replying affidavit dated 06th August 2024 through which he contested the respondent's legal fees for defending the appeal billed at Kshs.75,000/=. He also contested several other items on the bill of costs including virtual court attendances and service of court processes via email. The bill of costs was taxed at Kshs.47,150/=.
9. Under Rule 10 of the Advocates (Remuneration) Order (ARO), a Registrar or a Deputy Registrar of the High Court is a taxing officer for purposes of taxation of bills under the ARO.
10. A Judge of the High Court cannot therefore sit as a taxing master, neither can he assess or reassess the bill of costs. The correct position is that when a party contests assessment of the bill of costs, a reference is filed and is considered by the High Court. The only order that can be made by the High Court is one referring the matter back to the taxing master for re-assessment.

Disposition

11. The applicant's plea for reassessment by the High Court must be struck out since a High Court judge has no jurisdiction to assess or reassess a bill of costs. The application is so struck out.



12. There was no plea for the matter to be referred back to the taxing master for reassessment, so no order is made in that respect.
13. Orders accordingly.

DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 30TH DAY OF JULY, 2025.

R. MWONGO

JUDGE

Delivered in the presence of:

1. Ms. Mutegi holding brief for Mugambi Njeru for applicant
2. Mr. Amwayi for Respondent
3. Francis Munyao - Court Assistant

