



**Mwongela v Tarus & Company Advocates (Miscellaneous Civil Appeal
085 of 2023) [2025] KEHC 11928 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11928 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CIVIL APPEAL 085 OF 2023**

**J NGAAH, J
JULY 30, 2025**

BETWEEN

NICOLAS MASILA MWONGELA PLAINTIFF

AND

TARUS & COMPANY ADVOCATES DEFENDANT

RULING

1. By an application dated 9 January 2025, the applicant has sought an order to amend his bill of costs. However, it is apparent on the face of the applicant’s application that he was not awarded costs upon conclusion of the primary suit. This is clear from one of the grounds of the application in which it has been pleaded:
 - “ ii) Subsequent to the filling(sic) bill of cost was another cost filling an application under a certificate of urgency notice of motion date 9/9/2024 the plaintiff wanted to review judgment that was entered on 6th May 202, service of several documents to the defendant at Nakuru.”
2. The applicant is acting in person and it is apparent from this statement that his understanding of the English language is rather limited. Nothing much turns on that though because I understand the applicant to be saying that he has sought to review judgment so that he can be awarded costs which would include his disbursements for service of documents to the defendant in Nakuru.
3. The question whether the applicant ought to have filed a bill of costs in the first place arose when the bill came up for taxation on 6 September 2024. The taxing master noted that the applicant had not been awarded any costs in the judgment determining the applicant’s suit.



4. I have had the opportunity to read the judgment rendered by Magare, J. on 6 May 2024 and note that the question whether the applicant was entitled to costs weighed on the judge's mind. The learned judge noted as follows:

“8. The plaintiff acted in person. He is still entitled to disbursement. I note that he travelled from Makueni a number of times. I shall indicate a sum of Kshs. 21,000 as his disbursements or travelling, filing and service.”

5. Thus, the judge deliberately did not award costs because the applicant was not represented by an advocate. He awarded a global sum of Kshs. 21,000/= for disbursements which included service of documents to the defendant.

6. If the applicant was not satisfied with the order of the court on the award of costs, a proper course would have been to appeal against the judgment rather than seek its review. For this reason, I find no merit in the application to amend the bill of costs or to review the judgment of this Honourable Court. The applicant's application is dismissed. I make no orders as to costs. It is so ordered.

SIGNED, DATED AND DELIVERED ON 30 JULY 2025

NGAAH JAIRUS

JUDGE

