

IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY
AT DAR ES SALAAM
CIVIL REFERENCE NO. 10 OF 2023
(Originating from bill of cost 41 of 2023)

MILEI SEIFU SALUM1ST APPLICANT

SWEDY SEIFU SALUM2ND APPLICANT

VERSUS

EVON KARAURESPONDENT

RULING

MKWIZU J:

Having raised a winner in Land Appeal No. 3 of 2019, the Respondent in this matter filed before the Deputy Registrar a Bill of Costs claiming for a total sum of 2360,000/=being the traveling costs, accommodation, and filing fees. He managed to satisfy the taxing master that he had incurred traveling of 1,320,000/=

The applicants are not happy, They have filed this application moving the court under Order 7(1) (2)(3) and (4) of the Advocates Remuneration Order, 2015, GN No. 264 of 2015 seeking the following orders:

1. That the Honorable Court be pleased to call for call records and satisfy itself as to the correctness and propriety, in proceedings and orders issued by Hon. S. B. Fimbo- Taxing Officer in Bill of Costs No. 41 of 2023 dated 22nd May 2023.

2. That thereafter this Honorable Court be pleased to quash and set aside the decision issued by Hon. S. B. Fimbo – Taxing Officer in Bill of Costs No. 41 of 2023 dated 22nd May 2023.
3. That the costs of this application be paid by the Respondent
4. Any other relief(s) this Honorable Court may deem fit and just to grant

The Application is by way of chamber summons supported by a joint affidavit by the applicants. The hearing of the application was by way of written submissions. In support of the application, the applicants submitted that costs incurred in a case is proved by an EFD machine receipt and not otherwise as according to the Income Tax Act(Electronic Fiscal Devices Regulations,)2012 and that since the respondent's bill of costs had no such a receipt the claim could not have been found as established. They contended that in her ruling the taxing officer admitted that the EFD machine receipts were a mandatory requirement to prove any transaction but she went ahead to grant the transport costs without evidence, especially on the traveling costs from Tabora to Dar es Salaam some incurred on weekend without justification.

In response there to the respondent advocate submitted that the first ground is a misconception of the taxing masters' ruling because the ruling is specific that the EFD Machines receipts are not the mandatory requirement in the Bill of costs. He maintained that this position was expressed in another case of **Melkiory Mallya V Rose Peter Masawe**, Civil Reference No 62 of 2019, and **Erenedina William Swai V Andrea Nehemia Swai and another**, Civil Reference No 1 of 2022 (All unreported) where the Advocate

Remuneration Order 2015 was declared the only law governing the Bill of costs in the country

He also refuted the second point that the transport costs were awarded without proof. The respondent's counsel said, the taxing officer was right in awarding the traveling costs because the receipts were provided for as required by the law. He stressed that the respondent was attending the case from Tabora as indicated in the Bill of costs and therefore his costs were validly awarded.

I have considered the application. It is true that the issue of the EFD Machines receipts formed part of the taxing masters ruling. However, contrary to the applicant's understanding, the taxing master was specific in her ruling that the EFD Machines receipts were not a mandatory requirement in a bill of costs (See page 5 of the taxing officers' ruling), that is why she went ahead to looking into item 1 (g) of the Advocate Remuneration Order before she awarded the traveling costs. The applicant's observation that the taxing officer had concluded that EFD receipts are a mandatory requirement is thus a total misconception.

The next issue is whether the travelling costs was not proved. I have gone through the original bill of costs. All the travelling costs were exhibited by receipts and the amount claimed was awarded after the taxing master had considered the provisions of Item 1(g) of the advocate's Remuneration Order.

On the legality or otherwise of the transport costs incurred at the weekend I think this should not delay the court further. The applicant has not told the

court whether traveling on the weekend is prohibited by the law. It is common knowledge that one may travel on Sunday to attend the case on Monday or to come close to the court. The general evaluation of the applicant's evidence has failed to detect any problem that would have restricted the taxing master from awarding the complained costs.

This reference is unmeritorious. It is dismissed in its entirety. Being the application contesting the bill of costs result, I order each party to bear own costs.

Dated at Dare es salaam, this 23 Day of October 2023



E. Y Mkwizu
Judge
13/10/2023