

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE SUB-REGISTRY OF MANYARA**

**AT BABATI**

**REFERENCE NO. 5/2023**

*(Arising from the decision of Taxation Cause No. 8 of 2023, dated the 29<sup>th</sup> day of September, 2023)*

**MUSA KIBUO @ NTANDU.....APPLICANT**

**VERSUS**

**SLAGWARA TLUWAY ..... RESPONDENT**

**RULING**

*6<sup>th</sup> & 6<sup>th</sup> March, 2024*

***Kahyoza, J.:***

**Musa Kibuo @ Ntandu**, the applicant, filed the bill of costs claiming costs to the tune of Tzs. 9,290,000.00. The taxing officer taxed the bill of costs at Tzs. 1,590,000.00. Aggrieved, **Musa Kibuo @ Ntandu** instituted a reference seeking to challenge the decision of the taxing officer.

Before hearing the application, **Slagwara Tluway**, the respondent, raised a preliminary objection that the applicant filed the reference outside the ambit of Order 7(3) of the Advocates Remuneration Order, GN. 264 of 2015.

The applicant's advocate conceded that the application was filed out of time and left it to the Court to decide on the matter. She, however, prayed the Court to wave costs.

The respondent in rejoinder prayed to be awarded costs.

Indisputably, **Musa Kibuo @ Ntandu**, the applicant, filed the reference out of time. The law is clear that a party aggrieved by a decision of the taxing officer may file reference to a judge within 21 days from the date of the decision. The taxing officer delivered the ruling on 29<sup>th</sup> September, 2023 and the applicant filed the reference on 24.11. 2023. The reference was filed after six months. It was filed out of time prescribed by law.

Section 3 (1) of the **Law of Limitation Act**, [Cap. R.E. 2019] stipulates that every proceeding instituted after the period of limitation prescribed shall be dismissed. It reads-

*3.-(1) Subject to the provisions of this Act, every proceeding described in the first column of the Schedule to this Act and which is instituted after the period of limitation prescribed therefore opposite thereto in the second column, shall be dismissed whether or not limitation has been set up as a defence.*

Given the fact that **Musa Kibuo @ Ntandu**, filed the reference out of time, the only remedy is to dismiss it. Consequently, I dismiss the reference with costs. It is on record that respondent made one appearance, I wish to tax the costs of this reference under order 44 of the Advocates Remuneration Order, 2015 GN. No. 263/2015 at **Tzs. 150,000/=**. The costs taxed included costs for appearance and drafting and filing the counter affidavit.

It is ordered accordingly.

Dated this 6<sup>th</sup> day of **March**, 2024.



A handwritten signature in black ink, appearing to read 'J.R. Kahyoza', written over a horizontal line.

**J.R. Kahyoza**  
**JUDGE**

**Court:** Ruling delivered in the presence of the applicant, his advocate and the respondent. B/C Ms. Fatina present.

A handwritten signature in black ink, appearing to read 'J.R. Kahyoza', written over a horizontal line.

**J.R. Kahyoza, J.**  
**6/3/2024**