

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE SUB-REGISTRY OF MANYARA**

**AT BABATI**

**REFERENCE NO 333 /2023**

*(Arising from Taxation No. 9 of 2023 of the HC (T) at Manyara)*

**SAMBURI SANANGA.....APPLICANT**

**VERSUS**

**TETE OLONYOKE @ CHECHE OLONYOKE ..... RESPONDENT**

**RULING**

*4<sup>th</sup> & 13<sup>th</sup> March 2024*

***Kahyoza, J.:***

**Tete Olonyoke**, the respondent, filed the bill of costs claiming costs to the tune of Tzs. 6,480,000.00, which the taxing officer taxed at Tzs. 1,780,000.00. Aggrieved, **Samburi Sananga** instituted a reference seeking to challenge the decision of the taxing officer.

On 4.3.2024 the reference was heard in the absence of the respondent. While composing the ruling I suspected that the reference was filed out of time. I invited the applicant's advocate to address me on the issue whether the reference was filed on time. The applicant's advocate submitted that he filed the reference within 21 days as provided by law. He contended that he filed it on line on 1. January. 2024 and paid filing fees on 8. January. 2024.

I went into the e-case management system, which shows that the filing, billing and payment date was on 8<sup>th</sup>, January. 2024. There is no



evidence that **Samburi Sananga's** advocate filed the reference as alleged on 1<sup>st</sup> January, 2024. I am of the firm view that the reference was filed on 8. Jan. 2024 when 21 days had already expired from the date of delivery of the tax officer's ruling.

I wish to state that order 7(3) of the Advocates Remuneration Order, G.N. No. 264 of 2015 provides in no uncertain terms that a party aggrieved by the 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 12<sup>th</sup> December, 2023 and the applicant filed the reference on 8<sup>th</sup> January, 2024. The reference was filed after 27 days from the date of the ruling. Thus, 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 prescribed period of limitation, shall be dismissed. For the sake of clarity, I reproduce section 3 (1) of the Law of Limitation Act -

*"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." (emphasis is added)*



Having found that **Samburi Sananga** filed the reference out of time, the only remedy is to dismiss it. Consequently, I dismiss the reference with no order as costs. The respondent did not appear to defend the reference.

It is ordered accordingly.

Dated this 13<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 absence the applicant and his advocate Mr. Benjamin, who was duly informed and provided with a link which was [www.virtualcourt.go.tz/samburi](http://www.virtualcourt.go.tz/samburi) but he could not connect to the virtual court. B/C Ms. Ombeni (RMA) present.

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

**J.R. Kahyoza,  
Judge  
13/3/2024**

