

**THE REPUBLIC OF UGANDA**  
**IN THE COURT OF APPEAL OF UGANDA AT KAMPALA**  
**CIVIL APPLICATION NUMBER 384 OF 2017 CAPT**

**DAVID KABAREEBE :::::::::::::::::::: APPLICANT**

**VS**

**BANYENZAKI CHRISTOPHER :::::::::::::::::::: RESPONDENT**

**HON. MR. JUSTICE STEPHEN MUSOTA, JA**

**RULING**

10 This application was brought under sections 96 and 98 of the Civil Procedure Act and Rules 5 and 110 1 and 3 of the Judicature Court of Appeal Rules Directions. The applicant seeks for orders that leave be granted to the applicant to file a reference against the Taxation order given in Civil Application No. 306 of 2014 out of time.

15 The grounds upon which the application is premised are in the affidavit of the applicant and are briefly that;

1. That the Taxation Hearing Notice was served upon the Secretary in the Firm who is not authorized to receive court process.

20 2. That the failure to appear in Court for Taxation was an inadvertent error on the part of the Firm or advocate which should not be visited on the Applicant.

3. That the amount taxed on the Bill of costs is manifestly excessive in the circumstances.

25 4. That the Taxing master followed a wrong principle in arriving at her decision.

5. That it is in the interest of justice that this honourable court extends time to allow the Applicant to file a reference against the decision of the Taxing Master.

At the hearing of the application, Mr. Akampulira Micheal appeared for the applicant while Mr. Herbert Wakabala appeared for the respondent.

Counsel for the applicant submitted that this application is for 5 extension of time with which to

file a reference against the decision of the taxing master. That the 1<sup>st</sup> point is that the applicant wasn't heard and the 2<sup>nd</sup> point is that the bill was manifestly excessive and as such is now seeking leave because he got to know about the bill long after the days within which to appeal against the taxing 10 master's ruling had passed.

Rule 5 of the rules of this court provides for extension of time. It provides that:

“The court may, for sufficient reason, extend the time limited by these Rules or by any decision of the court or of the High Court for 15 the doing of any act authorised or required by these Rules, whether before or after the expiration of that time and whether before or after the doing of the act; and any reference in these Rules to any such time shall be construed as a reference to the time as extended.”

20 The applicant in this case contends that the Taxation Hearing Notice was not properly served and as a result, the applicant's advocate was unable to attend the taxation which proceeded *ex parte* and ruling delivered on 14<sup>th</sup> February 2017 in which the taxation master awarded 6,081,000/ = . These are sound reasons for 25 allowing this application.

This court has inherent powers to make such orders as may be necessary for attaining the ends of justice under Rule 2(2) of the rules of this court.

Accordingly, and in the interest of justice, I grant the leave on the 30 following terms;

1. The applicant shall file a taxation reference within 7 days from the date of this ruling.
2. Costs shall abide the taxation reference ruling.

Dated this 28<sup>th</sup> day of May 2018.

Hon. Mr. Justice Stephen Musota

(Justice of Appeal)