

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KABALE**  
**MISCELLANEOUS APPLICATION NO.49 OF 2015**

**(Arising from Civil Suit No.92 of 2004)**

**PHILMON RWANIKA & ANOR**

**APPLICANTS**

**(t/a Nyarurambi-Nyakabungo**

**Grazing group)**

**VERSUS**

**TWINOMUJUNI & ORS**

**RESPONDENTS**

**BEFORE HON.JUSTICE MOSES KAZIBWE KAWUMI**

**RULING**

This Application was filed by Chamber Summons for Orders that the decision of the Taxing Officer in Civil Suit No.01 of 2004 be set aside, the Bill of Costs be subjected to fresh taxation and for the costs of the Application to be provided for .

The Application was accompanied by Affidavits sworn by the Applicants principally complaining about the awards made by the Taxing Officer. The Bill Of Costs complained about was taxed on the 11<sup>th</sup> May 2010 and the Application was filed on the 14<sup>th</sup> July 2015.

Counsel for the Respondents raised preliminary objections to the effect that the Application was barred by Law since it was filed after five years yet Section 62(1) of the Advocates Act provides for the filing of Appeals or References from taxation decisions within 30 days from the date of the decision .

It was further argued for the Respondents that Civil Procedure Act and Rules under which the Application was purportedly brought do not apply to matters of Taxation. Regulation 2 of the (Advocates Remuneration and Taxation of Costs) Regulations it was argued, provides that taxation of costs as between party and party in contentious matters shall be in accordance with the Regulations. I was invited to dismiss the Application with costs.

The Application does not indicate the Section of the Act and any rule under which it was brought but in the written submissions by Counsel, he brought it out that it was premised on Section 83(C) of the Civil Procedure Act. Counsel argued that since The Advocates (Remuneration and Taxation) Rules derive from the Advocates Act, Court has jurisdiction to entertain the matter by way of Revision.

Counsel for the Applicants further argued that since the Registrar acted with material irregularity in taxing the Bill, the High Court could revise and tax it afresh and that that there was no time limit within which to apply for Revision. Court was urged to consider the merits of the Application so as to render substantive justice rather than dwell on technicalities.

Appeals and References from Taxation proceedings arise from Section 62 of the Advocates Act which provides;

*“Any person affected by a decision or order of a taxing officer made under the provisions of this part of the Act or any Regulations made there under may within 30 days from the date of the decision of a taxing officer appeal or make a reference to the Judge.”*

Regulation 2 of the Advocates (Remuneration and Taxation of Costs) Regulations provides that;

*” taxation of costs between party and party in contentious matters shall be in accordance with these Regulations.”*

I entirely agree with the submissions of Counsel for the Respondent that the Civil Procedure Rules are not applicable to taxation Appeals or References. The Advocates Act and Rules made there under are applicable and the procedure and time lines specifically provided. The Application provision of the Civil Procedure Rules specifically states ;

*“These Rules shall apply, as far as practicable, and unless otherwise expressly provided, to all matters arising and to all proceedings taken on any matters under the Act, or any Act amending the Act.”*

The Act referred to in the above provision is the Civil Procedure Act from which the Civil Procedure Rules derive. I have not come across any section in the Advocates Act or the Advocates (Remuneration and Taxation of Costs) Regulations that provides for the application of the Civil Procedure Rules.

The Application for the revision of the taxation proceedings is hence wrongly filed and barred by Law. I also wish to note that even if I were to find that Section 83 of the Civil Procedure Act applies to the impugned proceedings, the filing of the Application after five years militates against Clause (e) of the same Section which provides that;

*“No power of revision shall be exercised where from lapse of time or other cause, the exercise of that power would involve serious hardship to any person.”*

The Application is wrongly filed and time barred. It is hereby dismissed with costs.

Moses Kazibwe Kawumi

Judge

2<sup>nd</sup> December 2016.