



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

DELETE WHICHEVER IS NOT APPLICABLE (1) REPORTABLE: YES/NO (2) OF INTEREST TO OTHER JUDGES: YES/NO (3) REVISED DATE: 18 AUGUST 2025 SIGNATURE: [REDACTED]

Case No. 64337/2021

In the matter between:

DR. MOTHABI KEELE

APPLICANT

And

MAGISTRATE JANINE JANSE VAN RENSBURG

FIRST RESPONDENT

DR. BALI ZAMATHIYANE KEELE

SECOND RESPONDENT

Coram:

Millar J

Heard on: Review in Chambers

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Delivered: 18 August 2025 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 09H00 on 18 August 2025.

JUDGMENT

MILLAR J

[1] This is an application brought in terms of rule 48 of the Uniform Rules of court for the review of taxation. The rule provides that:

"(1) Any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to or disallowed mero motu by the taxing master, may within 15 days after the allocatur by notice require the taxing master to state a case for the decision of a judge."

[2] After filing a notice of review, the taxing master filed a stated case as provided for in rule 48(3). After receiving the stated case, both the applicant and the second respondent both filed submissions in terms of rule 48(5)(c). The application for review was then placed before me.

[3] The review turns on a single issue as appears below and for that reason, I decided in terms of rule 48(6)(a)(i) that it is appropriate that this review be decided on the papers submitted.

- [4] In the present matter, the bill of costs in question was taxed in the sum of R131 131.30 on 9 December 2024. The applicant's application for review was delivered on 18 January 2025.
- [5] Although the notice was delivered outside of the 15-day period referred to in rule 48(1), no application for condonation was made. Even though no such application was made, given the relatively short period of time that the application was out of time and that it was over the December period, I accept, for purposes of this review that the application is properly before me. I am moved to this view in no small part by the fact that the applicant is a lay person who is representing himself.¹
- [6] The events leading up to the taxation are the following:
- [5.1] On 9 November 2022, the second respondent obtained an order for costs against the applicant. A bill of costs was prepared.
- [5.2] The bill of costs was served on the applicant by email on 1 December 2022 and subsequently set down for taxation on 26 November 2024, some two years later, on the unopposed taxation roll. No formal notice to oppose the taxation of the bill of costs or any item in that bill of costs was served on the second respondent.

¹ See *Greenblatt v Barends* 1960 (4) SA 825 (C) where the delay was for a period of 6 months which was found in the circumstances to be unreasonable. The delay in the present period over December is only a few days and thus the present matter is distinguishable. In any event, the point was not taken by either the Taxing Master or the Second Respondent.

- [5.3] Only on 13 November 2024, did the applicant give notice to the taxing master that he intended to deliver a notice in terms of rule 30 in objection to the taxation and on 26 November 2024, he subsequently delivered such a notice.
- [5.4] In terms of the notice, he asserted that the taxation of the bill of costs on 26 November 2024 should be suspended pending the outcome of an application for leave to appeal against the order granted against him and which he had made to the Constitutional Court.
- [5.5] The taxing master thereafter postponed the unopposed taxation to the be heard as an opposed taxation on 9 December 2024.
- [7] After hearing the applicant on 26 November 2024, the taxing master drew the applicant's attention to the case of *Beinash t/a Beinash & Co and Another v Reynolds NO and Others*.² In the notice of review, the applicant states that:
- "The Taxing Master volunteered to offer the Applicant a copy of an authority supra in the matter between Beinash t/a Beinash & Co and Another v Reynolds NO and Others ("Beinash"). Upon perusal of the matter of Beinash, the Applicant made further representations to the Taxing Master in an email that he sent on 6 December 2024 at 12h25."*
- [8] On 9 December 2024, the applicant appeared at the taxation and sought to argue that the taxation could not proceed on the basis that having lodged an application for leave to appeal to the Constitutional Court, the court order in terms of which the bill of costs was to be taxed, was suspended.

² 1999 (1) SA 1094 (W).

- [9] The applicant asserted that the suspension was in terms of section 18(1) of the Superior Courts Act 10 of 2013. This despite that the applicant understood there was judicial precedent for the view taken by the taxing master that “...the common law on the issue stated that an appeal against a judgment did not bar a party to which costs had been awarded in that judgment from proceeding to have them taxed.”³
- [10] The taxation of a bill of costs is not the enforcement of any court order. The court order in question is the order to pay costs. The taxation process is simply the quantification of those costs.⁴ Absent a court order in terms of which a warrant of execution could be issued, the taxation of the costs confers no right in and of itself to the party in whose favour the bill of costs is taxed. So, even if an application for leave to appeal is made, as set out in *Beinash*, the party in who’s favour the order was granted is perfectly entitled to have the bill taxed.
- [11] If leave to appeal is refused, then they would proceed to execute on their taxed costs. If the appeal is successful, then the party who insisted upon taxation before the appeal process had been finalized, would find themselves liable to pay wasted costs to the successful party for having subjected them to the taxation process when ultimately it was unnecessary for them to have done so.
- [12] The entirety of the notice of review was predicated upon the “suspension” of the order granted on 9 November 2022. The applicant’s notice of review does not comply with rule 48(2)⁵ insofar as there is no objection to any item or part of an item in the bill of costs. It is apparent from the notice of review that the applicant did not accept the judgment and any consequence that flowed from it.
- [13] Faced with the fact that the taxing master had ruled that the taxation would proceed because the lodging of the application for leave to appeal to the

³ *Beinash supra* at 1095E-F.

⁴ *Jos Crosfield & Sons Ltd v Nils Testrup* 1912 TPD 696.

⁵ *Brenner NO v Sonnenberg, Murphy, Leo Burnett (Pty) Ltd formerly D’Arcy Masins Benton & Bowless SA (Pty) Ltd* 1999 (4) SA 503 (W) at 512.

Constitutional Court did not suspend the taxation, the applicant then argued that the taxing master was not a liberty to simply ignore his rule 30 notice.

- [14] The taxation proceeded and as a final ground of review, the applicant asserted that *"what appears to be pressure from the representative(s) of the Second Respondent, the Taxing Master prioritized this matter over other multiple bookings for the same slot."*
- [15] In response to the application for review, the taxing master delivered a comprehensive stated case. Besides dealing with the events as set out above, the taxing master also denied any pressure had been exerted by anyone. In this regard it was stated: *"My decision to proceed with the taxation was based on the applicable legal rules, and I acted independently of any external influence. The taxation proceeded as the Court had not made any order suspending it, and no formal opposition to the application had been lodged that would have justified halting the process."*
- [16] The second respondent also made submissions. These accorded with what is common cause between the parties and the taxing master as far as events leading up to the taxation are concerned.
- [17] The submissions go further dealing with the application for leave to appeal to the Constitutional Court and the various allegations made by the applicant against the second respondent. None of these are relevant for determination of this review, save to record that the applicant's application for leave to appeal to the Constitutional Court was, according to the second respondent, finally dismissed on 20 March 2025.
- [18] Since no notice to object to the taxation of any specific items in the bill of costs was delivered as required by rule 48(1), there is no challenge by way of review to the taxation of any of the individual items reflected and allowed in that bill of costs.

- [19] If the applicant had wished to interdict the taxation from proceeding, he was required to obtain an order of court to do so. This he did not do. He chose instead to rely on the provisions of rule 30. However, since he was given timeous notice of the taxation, there was no formal irregularity upon which rule 30 would find application. The reference to section 18(1) of the Superior Court's Act was entirely misconceived. This was brought to the applicant's attention by the taxing master and the taxation then postponed from 26 November 2024 on the unopposed roll to the opposed roll on 9 December 2024. The applicant was accommodated at every turn and was given every opportunity to vindicate his rights.
- [20] Despite having the authority in *Beinash* brought to his attention before postponement on 26 November 2024, the applicant still failed to deliver any notice of objection to any of the items in the bill of costs.
- [21] It was held in *Olgar v Minister of Safety and Security*,⁶ that if the party opposing the taxation fails to object to items in the bill of costs, when before the taxing master, he cannot thereafter invoke the review of taxation procedure provided for in rule 48. I agree with this view.
- [22] For the reasons set out above, I am of the view that the review of the taxation on 9 December 2024 is without merit and must fail. Costs will follow the result.
- [23] In the circumstances, it is ordered: -
- [23.1] The application for review of the bill of costs taxed on 9 December 2024 is dismissed.

⁶ 2012 (4) SA 127 (ECG) at 132H-I, 133A-C and 133H.

[23.2] The applicant is ordered to pay the second respondent's costs.


A MILLAR

JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

REFERRED ON:

4 AUGUST 2025

JUDGMENT DELIVERED ON:

18 AUGUST 2025

FOR THE APPLICANT:

IN PERSON

FOR THE 2nd RESPONDENT:

MAFUNGO ATTORNEYS

REFERENCE:

MS. T CLOETE