**Diocese of Nyeri v Kibe**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 26 November 1971

**Case Number:** 1073/1970 (17/74)

**Before:** Madan J

**Sourced by:** LawAfrica

*[1] Costs – Instruction fee – Double the fee allowed – Whether error of principle.*

*[2] Costs – Witness expenses – Travel from another country – When allowable – Whether special order*

*necessary.*

**Editor’s Summary**

The plaintiff was awarded costs in a running down action. On taxation of the bill the taxing master allowed an instruction fee of double the basic fee stating that there was a practice to allow more than the basic instruction fee in defended suits.

He also allowed the expenses of the plaintiff’s driver in travelling from Ethiopia for the hearing.

On appeal by the defendant on both points.

**Held –**

(i) every instruction fee had to be assessed individually and there were no grounds for interfering with

the exercise of the taxing master’s discretion;

( ii) no express order was necessary before the taxing master could properly allow the travelling

expenses of the witnesses.

Appeal dismissed.

**No cases referred to in judgment**