



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 2274 OF 2012**

**IN THE MATTER OF THE ESTATE OF PATROBA NDURI MBAI**

**(DECEASED)**

**RULING**

1. The Motion dated 26<sup>th</sup> September 2014 seeks setting aside of orders made on 15<sup>th</sup> July 2014. .
2. The impugned order was recorded before Kimaru J by consent. It states:-  
  

*‘By consent, the 4 parcels of land be valued, and thereafter there shall be equal distribution of the same among the 4 houses of the deceased to be held in trust by the widows for the children. The 2<sup>nd</sup> house will later care for the protestor’s interest. Mention on 6<sup>th</sup> October 2014.’*
3. Counsel appearing thereafter signed on the record.
4. A consent order has the same force of law as a contract. It can only be set aside on the same grounds and for the same reasons as would justify setting aside a contract. These grounds and reasons include illegality, fraud, misrepresentation, coercion and undue influence.
5. There is nothing in the Motion dated 26<sup>th</sup> September 2014 that brings out the grounds for setting aside the consent order on record.
6. I find no basis at all upon which I can set aside the order recorded on 15<sup>th</sup> July 2014. The Motion dated 26<sup>th</sup> September 2014 must accordingly fail. It is hereby dismissed with costs to the respondents.
7. It is so ordered.

**DATED, SIGNED and DELIVERED at NAIROBI this 26<sup>TH</sup> DAY OF OCTOBER, 2016.**

**W. MUSYOKA**

**JUDGE**