



REPUBLIC OF KENYA



KENYA LAW
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**Mwangi v Mwangi (Succession Cause 334 of 2008)
[2025] KEHC 3082 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3082 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE 334 OF 2008**

**M MUYA, J
MARCH 6, 2025**

BETWEEN

PRISCILLA NJOKI MWANGI PETITIONER

AND

ELIZABETH WAIRIMU MWANGI OBJECTOR

RULING

1. The Summons General Application dated 15th June, 2022 seeks the followings orders:-

That the mediation full settlement dated at Nyeri on 30th September, 2021 be set aside and or not to be adopted as an order of this honourable court.
2. The grounds are as follows:
 - a. That the mediation report was obtained through duress and coercion or threats.
 - b. That the mediation settlement disinherits the applicant/petitioner and other beneficiaries of the Deceased Estate and was reached without most of the beneficiaries input.
 - c. That the mediation is prejudicial and only favours the Objector/Respondent to wit Elizabeth Wairimu Mwangi.
3. This application is opposed. In her Replying Affidavit, that the Respondent, Elizabeth Wairimu Mwangi inter alia deposes that she participated in a court annexed mediation with the applicant. She was in the company of her daughter Esther Njoki and the applicant was in the company of her youngest daughter by the name of Salome Wambui as the applicants other children were not biologically those of the deceased.
4. That the discussions leading to the mediation agreement were conducted in the presence of the mediator and the applicant and she accepted that her daughter Salome Wambui do receive 2 acres from



the Deceased Estate. The applicant did concede to have entered into marriage with the Deceased 22 years after the Respondent and considerably contributed to the acquisition of the family property at Endarasha. That the Deceased sold more than 7 acres of the said Endarasha land and she had utilized the sum of Kshs.399,000/- which was in the deceased bank account singularly. That she confided with the Respondent pressure from her advocates to renege on the mediation agreement. That it was not true that the court had rejected the mediation agreement. She deposes that she was not aware of Kiambu/Dandora plots.

The applicants Case:

5. The applicant's contention is that she entered into the mediation settlement in haste after this cause protracted hearing.
6. Further that during mediation process, her children and herself were intimidated, harassed and threatened to accept a lesser portion of a parcel of land belonging to her Deceased husband which was Nyeri/Endarasha/2250 measuring approximately 27.6 acres.
7. That as a result of the intimidation and harassment she decided to sign the mediation settlement agreement that apportioned the Respondent and her family 25.6 acres of that land with herself and her daughter getting 2 acres only.
8. Upon presentation of the mediation settlement in court the mediation settlement was rejected as it was top-sided one.
9. That the mediation settlement is not proper, it's unfair and should not be adopted an order of this honourable court.
10. It is further deponed that the Respondent and her children have information and control of parcel no. Nyeri/Endarasha/2252 as well as other properties held by the trustees of Kiambu Dandora farmers company Ltd plot no. 240, 256 and 292 on LR no. 11379/3.

Analysis and Determination:

The Law

11. In the case of *Kenya Commercial Bank Ltd –Vs- Specialized Engineering Co. Ltd* (1982) eKLR 485, it was held:-

“That an order entered into by consent is binding on all parties to the proceedings and cannot be set aside or varied unless it is proved that it was obtained by fraud or collusion or by an agreement contrary to the policy of the court or where consent was given without sufficient. Material facts, or in representation or ignorance of such facts in general for reason which would enable the court to set aside an agreement.
12. During the whole process the applicant was acting in person and signed on his own accord. The Respondent was represented by counsel. There is nothing on record to show any limitation on the part of the applicant or on the authority of the mediator to adequately assist the parties to reach a settlement in the matter”
13. In the present application, the main ground is that if intimidation, harassment and threats. It is not shown what form or nature this intimidation harassment and threats had been meted out and by whom. The allegations lack particularity and specificity and therefore remain largely ambiguous and without basic foundation.



14. The mediation settlement agreement was entered by consent. An order entered by consent is binding on all parties. It cannot be set aside unless it is proved that there was fraud, collusion or it was contrary to the policy of the court.
15. There are not particulars of fraud pleaded nor is there allegation of collusion made or contention made that the consent was obtained against the policy of the court.
16. I find the application to set aside the full mediation settlement dated September 30, 2021 to be without merit and it is dismissed.

RULING READ AND DELIVERED THIS 6TH DAY OF MARCH, 2025.

In the presence of:-

1. Miss Kuria for the Respondent

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M. MUYA

JUDGE

