



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of John Mutiso Letu (Deceased) (Succession Cause
261 of 2018) [2022] KEMC 43 (KLR) (3 October 2022) (Ruling)**

Neutral citation: [2022] KEMC 43 (KLR)

**REPUBLIC OF KENYA
IN THE MACHAKOS LAW COURTS
SUCCESSION CAUSE 261 OF 2018
CN ONDIEKI, PM
OCTOBER 3, 2022**

IN THE MATTER OF THE ESTATE OF JOHN MUTISO LETU (DECEASED)

BETWEEN

KYALO MUTISO LETU PETITIONER

AND

ELIZABETH JOHN MUTISO OBJECTOR

RULING

1. Regarding the Summons for Confirmation of Grant dated 16th July 2021, the Objector herein filed an Affidavit of Protest against confirmation. This court referred the matter to mediation on 28th October 2021. The mediation matter was registered as Machakos Mediation No. 31 of 2021.
2. Upon completion of the mediation process, the mediator, Mrs. Sarah Wahu Kinyanjui, filed a Mediator's Report dated 14th December 2021 with the Mediation Agreement dated 14th December 2021, annexed to the Report. The Report indicated that that the parties had reached a settlement.
3. However, through her advocate on record, the Objector raised an objection against adoption of the said Mediation Agreement by this court, on grounds that no settlement had been reached and that she did not sign the said Mediation Agreement.
4. It became incumbent upon this court, therefore, to conduct a trial within a trial to establish the claim. Upon hearing the Mediator, the Petitioner, the Objector and all signatories listed in the said Mediation Agreement, it became apparent that on the day appointed for signing the Mediation Agreement, one faction of beneficiaries of the estate led by the Petitioner arrived as a group and signed the agreement as a group in one sitting. The faction stated that after signing and, they decided to leave and while on their way out, they met the Objector at the gate arriving. It thus became apparent that none of the members of this faction witnessed the Objector signing. The only other person who asserted to have seen the Objector signing the agreement was the Mediator.



5. Gathering from the facts and circumstances of this process, this court was thus satisfied that the circumstances under which the said agreement raises reasonable doubt in favour of the Objector. Being a process that draws a lot of legitimacy from volition and credibility of the process, it would have been most desirable to have all the beneficiaries (including the Respondent), sign the agreement in one sitting, to alleviate such objections.
6. Wherefore I find this reason sufficient to set aside the said agreement and order a fresh process. In final analysis, this Court issues the following directions and orders:
 - a. The Respondent's objection, against adoption of the Mediation Agreement dated 14th December 2021, is hereby upheld.
 - b. I direct that this file to be placed before the Registrar Mediation for fresh directions towards a fresh mediation process.
 - c. I further direct that the fresh mediation process to be presided by another Mediator, except Mrs. Sarah Wahu Kinyanjui, and that the resultant mediation agreement be signed by all beneficiaries of the estate in one sitting.

**DELIVERED, SIGNED AND DATED IN OPEN COURT AT MACHAKOS LAW COURTS THIS
3RD DAY OF OCTOBER, 2022**

.....

C.N. Ondieki

Principal Magistrate

Advocate for the Petitioner:.....

Advocate for the Objector:.....

Court Assistant:.....

