



**Ethics and Anti-Corruption Commission v Kamuri & another
(Miscellaneous Application E035 of 2024) [2025] KEHC 15001 (KLR)
(Anti-Corruption and Economic Crimes) (22 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15001 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES
MISCELLANEOUS APPLICATION E035 OF 2024**

**LM NJUGUNA, J
OCTOBER 22, 2025**

BETWEEN

ETHICS AND ANTI-CORRUPTION COMMISSION APPLICANT

AND

DR EVANSON NJOROGE KAMURI 1ST RESPONDENT

JACQUELINE KAVETE MBULI 2ND RESPONDENT

RULING

1. The court has been moved by way of the Notice of Motion dated the 11th August, 2025 brought under Sections 1A,1B, and 3A of the *Civil Procedure Act* and Order 40, Rule 7, Order 51 Rules 1,4,10, and 15 of the Civil Procedure Rules, Sections 26 and 56 of the Anti- Corruption and Economic Crimes Act and Articles 50(1) and 159 (2) (a) (2)(d) of *the Constitution*.
2. The application is premised on the grounds on the face of the same and it is supported by the annexed affidavit sworn by the first applicant. Through the application, the applicant seeks the following Orders;
 1. That pending the hearing and determination of the application, this Honourable court be pleased to grant a stay of adoption of the consent Order dated 29th July,2025
 2. That following the full and final determination of this application, this Honourable court be pleased to set aside the consent order dated 29th July,2025
 3. That any other Order or relief that this Honourable court may deem just and fit to grant; and
 4. That costs of the application be provided for.



3. The applicant herein is seeking to stay adoption of the consent order dated the 29th July, 2025 which has been signed by the 1st respondent and one Jacqueline Kavete Mbuli (the 2nd respondent herein). He avers that, in the 2nd respondent's replying affidavit sworn on the 5th February, 2025, she avers that she was not privy to the transaction of Ksh. 4,000,000 transferred to her bank account, and that she has no interest in the said sum, and that she had no dealings with the applicant herein.
4. That the 1st respondent vide a letter dated the 5th June,2025 sent a notice for the applicant to provide information on the sources of his assets pursuant to Section 26 of the *Anti-Corruption and Economic Crimes Act*, No.3 of 2003, which notice he complied with, and provided an explanation as requested.
5. The applicant states that despite him having offered an explanation, the 1st and 2nd respondents, without the knowledge of the applicant, entered into a consent dated the 29th July,2025 to surrender Ksh.4 Million held at the Standard Chartered Bank (K) Limited to the 1st respondent.
6. The applicant contends that he is the bonafide owner of that money and he has sufficiently explained the source of the amount. He is thus strongly contesting the consent and prays that it should not be adopted as the order of the court.
7. In her replying affidavit, the 2nd respondent reiterated that she is not privy to the source of the Ks. 4 Million that appear to have been transferred to her bank account number XXXXXXXXXXXXXXX by the applicant, and she has no claim on the same. She stated that when she first got notice of the funds having been deposited into her account, she promptly informed the bank on the 24th May,2024 that she was not expecting such funds, and asked that the funds be reversed back to the sender but the bank declined to reverse the transaction and instead froze her account without any further clarifications.
8. She further states that it is only the EACC that has ever made claim on the money but the applicant has never laid any claim in it despite having knowledge of her affidavit sworn on the 5th February, 2025, in which she disowned the funds, and therefore, there was no nothing whatsoever to prevent her from entering into a consent for the surrender of the funds to EACC who has claimed the same. She prays that the money be transferred from her account so that her account can be unfrozen and the same be preserved in the bank account of EACC.
9. The application was disposed of by way of written submissions.
10. The applicant identified only one issue for determination; Whether the consent letter dated the 29th July 2025 was entered validly, and if the same should be allowed for adoption between the respondents to this application.
11. He relied on the case of Cheruiyot Vs Korir (Civil appeal No. 131 of 2017) (2021) KECA 222 (KLR) and the case of Importers and exporters Limited Vs Teleposta Pension Scheme Registered Trustees & 5 others (2019) eKLR in which the court stated that a consent judgment or order has a contractual effect and can only be set aside on grounds which would justify setting aside of a contract or if certain conditions remain to be fulfilled, which are not carried out.
12. That just like a contract, a consent is equally entered willingly by parties, but the same must not be done to further an illegality and that, the respondents have colluded in circumventing the orders that were issued by the court in its ruling delivered on the 2nd April,2025.
13. He submitted that the 1st respondent wrote to him on the 5th June,2025 seeking an explanation within 14 days regarding the source of funds which included the Ksh.4 ,000,000 which is the subject of this application, but before an explanation could be given and formally submitted to the 1st respondent,



the consent was signed without his participation and/or knowledge before he could be given reasons as to why freezing orders should be lifted without formally going through the court process.

14. The 1st respondent identified one issue for determination; Whether the consent dated the 29th July, 2025 was valid and should be adopted as an order of the court.
15. The 1st respondent made reference to Article 159(2) of *the Constitution* and Order 49 Rule (3) of the Civil Procedure Rules and relied on the case of Cheruiyot Vs Korir (supra) and that of Purcell Vs FC Ltd (1970) 2ALL ER both to the effect that a consent order can only be set aside on grounds which would justify the setting aside of a contract and averred that the applicant has failed to demonstrate with proof that he has met the threshold for the orders sought.
16. The 1st respondent averred that its investigations had revealed that on the 23/06/2024, the applicant herein had transferred the sum of Ksh4,000,000 to account No. XXXXXXXXXXXXX held in the name of the 2nd respondent, domiciled at Standard Chartered Bank, one day after the 1st respondent searched his premises, which in its view was evidence that he was laundering the money with a view to evading freezing and recovery of proceeds of corruption by the 1st respondent.
17. That the transfer was suspected to have been aimed at defeating or concealing the said funds, and there was an urgent need to preserve the funds, and it is for that reason that the 1st respondent filed and obtained preservation orders and upon conclusion of its investigations, it filed forfeiture proceedings in HC ACEC E032/2025 against the applicant herein for unexplained assets worth Ksh. 229,445,647.00
18. It was submitted that the 2nd respondent has admitted vide her replying Affidavit sworn on 5th February, 2025 that she is not privy to the Ksh.4,000,000 sent to her account; that she has no interest in the said sum; that she has no dealings with the 1st respondent, and as a result of the above, the 2nd respondent entered into a consent with the Commission for the surrender of the said sum.
19. That the said consent was entered into by the parties voluntarily, without coercion, misrepresentation, and/or fraud and the applicant has failed to demonstrate with evidence the elements/principles for setting aside such a consent order. That, he has not demonstrated an arguable prima facie case with a likelihood of success that in the absence of the stay orders, he is likely to suffer prejudice if the said sum is surrendered to the Commission, since he will have the option of claiming from the Commission in the unlikely event that he is successful in HCACEC E032 of 2025, which is currently pending before the court.

Analysis And Determination

20. The court has considered the application, and all the material that has been placed before me including the submissions by the parties. The only issue for determination is whether the consent dated the 29th July, 2025 should be adopted as the order of the court.
21. The applicant herein is seeking to stay adoption of the consent order dated the 29th July,2025. The said consent is between the respondents herein, in which, the 2nd respondent has agreed to surrender the sum of Ksh. 4 Million which is preserved by an order of the court in Bank account number XXXXXXXXXXXXX domiciled at Standard Chartered Bank (K) Limited in the name of the 2nd respondent.
22. The said sum of money was transferred into the 2nd respondent's account by the applicant herein on the 23rd June, 2024 which transfer is suspected to have been aimed at defeating or concealing the said funds.
23. Before the consent was adopted as the order of the court, the applicant moved this court with the present application. It is a well settled principle that a consent judgement or order has contractual effect



and can only be set aside on grounds which would justify setting aside a contract or if certain conditions remain unfulfilled, which are not carried out. See the case of JM Mwakio Vs Kenya Commercial Bank Ltd (Civil appeal 28 of 1982.

24. In the case of Purcell Vs FC Trigell Limited (1970) 2ALL ER671, Winn J stated;
- ”It seems to me that, if a consent order is to be set aside, it can really only be set aside on grounds which would justify the setting aside of a contract entered into with knowledge of the material matters by legally competent persons.....”
25. In a more recent decision in Inter Countries Importers and Exporters Limited Vs Teleposta Pension Scheme Registered Trustees & 5 others (2019) eKLR the court pronounced itself as follows;
- “Essentially, the above cited authorities are clear that a consent Order will only be set aside if it can be demonstrated that it was procured through fraud, non-disclosure of material facts or mistake or for a reason which would enable a court to set it aside.....”
26. Bearing the above principles in mind, the court has noted that the subject funds were transferred from the applicant’s account to that of the 2nd respondent. This fact is not denied by the 1st respondent. Though the 2nd respondent has denied any knowledge of the money, it defeats logic and common sense how a person would transfer that kind of money to someone who is not known to him. Pending before this court is forfeiture proceedings vide HCACEC No. E032 of 2025 against the applicant for unexplained assets of Ksh. 229,445,647.00 and he claims to be the Bonafide owner of the Ksh.4,000,000. He has stated when he was served with the notice to explain his wealth by the 1st respondent, he gave an explanation on the sources of his wealth but that notwithstanding, the respondents entered into a consent to surrender the money without his knowledge.
27. Considering that the 2nd respondent has confirmed that she is not the owner of the said amount, and that she was not privy to its transaction, yet she purports to enter into a consent to surrender the money, it is my considered view that the consent was not entered into in good faith and it is only fair that the said sum be preserved pending the hearing and determination of HCACEC E032 of 2025. Upon determination of the case, the court will make an order releasing the money to the rightful owner.
28. In the end, and taking the above into consideration, the court hereby makes the following orders;
- a. The sum of Ksh 4,000,000 preserved by an order of the court in Bank account No. XXXXXXXXXXXXX domiciled at Standard Chartered Bank (K) in the name of Jacqueline Kavete Mbuli (the 2nd respondent herein) be transferred to EACC Asset Recovery Account Number XXXXXXXXXXXXX, domiciled at K.C.B, Milimani for preservation pending the hearing and determination of HCACEC E032 of 2025.
 - b. Each party to bear its own costs of the application
 - c. It is so ordered.

SIGNED, DATED AND DELIVERED VIRTUALLY ON THE 22ND DAY OF OCTOBER, 2025

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L.M. NJUGUNA

JUDGE

In the presence of;

Miss Ochola for the 1st respondent



Mr Waithaka for the 2nd respondent

Mr. Kisigwa holding brief for Mr. Mosota for the applicant

Court assistant.....Adan

