Grounds of Opposition to Reopening a Final Judgment as Compromised

Educational sample 383 | Mombasa

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE HIGH COURT AT MOMBASA

CIVIL SUIT NO [reference]

[DECREE HOLDER] v [JUDGMENT DEBTORS]

GROUNDS OF OPPOSITION

1. The decree holder opposes the debtors motion dated [date] insofar as it asks the trial Court to declare its final judgment and consequential orders moot or compromised without a proved agreement adopted in this case or another available legal basis.

2. An allegation of a mediation settlement and a separate-case judgment does not establish recorded compromise or satisfaction of this decree. The actual operative documents and applicable procedure must support the relief sought.

3. The Court finality after judgment permits recognised limited corrections and clarification; it does not generally authorise material reversal of the judgment substance under an invocation of inherent power, procedural objectives or article 159.

4. The applicants have not identified a clerical or arithmetic error, ambiguity or omitted consequential matter capable of correction without changing the substance of the judgment. A disputed assertion of settlement must be addressed through the proper procedure and evidence.

5. The earlier failed setting-aside application and current execution record must be disclosed. Any existing stay or actual payment must also be recognised; opposition to reopening does not remove the Court lawful supervisory powers over execution.

6. The decree holder requests dismissal of the unsupported motion with appropriate costs and further lawful execution directions. These grounds contain legal opposition only; disputed facts require competent affidavit evidence. No imprisonment or coercive order is sought solely through this response.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

These are grounds of opposition to the actual motion, not a fact-finding preliminary objection or a replying affidavit. Tie each ground to the proper test and admitted record. Supply a separate authorised affidavit for disputed factual evidence where needed. Check court directions on response and service.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

After a 2019 judgment and a dismissed setting-aside application, the creditor extracted a decree and obtained taxed costs of KES 1,861,830. Debtors resisted execution by invoking a mediation agreement and a judgment in a separate suit. They sought stays and a declaration that the existing suit and consequential orders were compromised.

The High Court dismissed the January 2025 motion with costs. No mediation agreement had been proved registered and adopted as an order in this case. The requested substantive reversal also fell outside the limited correction and clarification exceptions to functus officio.

Use the Civil Procedure Act and the applicable execution, compromise, review or appeal process according to the exact relief. A separate-case judgment is not automatically an adopted settlement or recorded satisfaction of this decree. The source gives inconsistent company labels in the narrative; inspect original files rather than reproduce those labels as facts. Do not equate KES 1,861,830 taxed costs with the whole decree.

[2025] KEHC 7321 (KLR) - 23 May 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/muhsin-v-ibrahim-3-others-2025-kehc-7321-klr

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/muhsin-v-ibrahim-3-others-2025-kehc-7321-klr

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.