Decree Holder Submissions on Functus Officio and Unproved Mediation Adoption

Educational sample 385 | 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]

WRITTEN SUBMISSIONS

1. The question is whether the debtors have shown a lawful basis to stop execution and declare this perfected judgment compromised. The creditor relies on the actual judgment, decree, earlier ruling, costs certificate and documents produced concerning the separate mediation proceedings.

2. A settlement may have legal consequences when proved and given effect through the applicable procedure. The decisive gap in this source was absence of evidence that the alleged agreement was registered and adopted as an order in this cause. Similar parties or related litigation do not fill that gap.

3. The finality principle prevents the trial Court materially undoing a completed judgment merely because the debtors invoke a later judgment in another case. Distinguish recognised correction, clarification, review, appeal and execution questions from a request for substantive reversal outside an available power.

4. The requested declaration that all consequential orders were compromised was not confined to an arithmetic error, clerical slip or ambiguity. The applicants must identify the actual procedural basis and operative evidence for the specific relief, not rely on inherent power as a substitute.

5. The source Court dismissed the motion with costs. That holding does not dispense with accounting for actual payments, recognising a lawful stay or following the applicable execution and notice-to-show-cause safeguards.

6. The creditor requests dismissal of the unsupported reopening request, appropriate costs and lawful execution directions on a reconciled balance. The taxed KES 1,861,830 must remain a separately identified costs item and not be represented as the full principal decree.

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

Identify pleaded issues, admitted evidence and genuine record pages. Follow directions on length, authorities, filing and service. Submissions do not introduce exhibits or cure missing substantive prayers. Distinguish what a party sought from what the Court ordered, and an unsuccessful historical position from the actual holding.

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.