

SUCCESSION DISPUTE

Fai siblings directed to agree and sign consent

A daughter of the late Fai Amario is seeking Sh134,000 monthly maintenance from her father's estate.

Marsha Dee, 32, wants her brother Miki Ng'ang'a to cater for her educational needs, pay her rent and buy her food and medicine until Fai's Sh478 million succession suit is concluded.

"The applicant (Ms Dee) demands Sh134,000 every month to cater for her basic needs," her lawyer Pearlyne Omamo told Justice Teresia Matheka on Tuesday.

Ms Omamo said Dee has been living with disability for over a year due to chronic epilepsy and was thus reliant on her brother for financial assistance. She claimed Ng'ang'a, who had agreed to cater for Dee's maintenance, has not remitted her monthly stipend

since March 2021.

"My client who used to depend on her late father for sustenance has been unable to fulfill her payment obligations for the last four months," she said.

She said that Dee has defaulted on her house rent and was unable to access vital medication. She has also failed to attend her therapy sessions as required.

But Ng'ang'a wants the application dismissed for misrepresentation and patent untruths.

Justice Matheka directed the parties to agree and sign a consent by Monday, next week. She noted it would be in the interest of justice if Dee's medical concerns are addressed. **[Daniel Chege]**

ACCOUNTABILITY

Ombudsman now wants whistleblower reinstated

The Ombudsman has condemned the sacking of whistleblower Spenser Sankale by the Maasai Mara University.

The Commission on Administrative Justice Chairperson Florence Kajuku yesterday called for reinstatement of Sankale, who she said was being victimised for telling the truth and doing his job.

Speaking in Mombasa during a workshop on access to government information, Kajuku said her office would ensure he was not victimised.

"Sankale was sacked because in his capacity as an accountant, he made public misappropriation of funds. We have written to the vice chancellor and chairman demanding Sankale be reinstated," she said.

Kajuku said he should have been given an opportunity to defend himself, noting that suspects have already been charged in court because of the information raised by Sankale.

The Ombudsman said if a person can not access information from the government within 21 days, they should write to the commission.

The agency is conducting the first phase of sensitisation in Mombasa, Garissa, Nandi and Kitui before moving to other counties.

"We shall be visiting other counties to educate the public on the Access to Information Act and allow them an opportunity to tell us where the government entities and counties have failed so we can oversight," she said. **[Joackim Bwana]**

KAKAMEGA

Senator Malala to be enjoined in Matungu by-election petition case

Kakamega Senator Cleophas Malala will be enjoined in the election petition challenging the election of Matungu MP Oscar Nabulindo.

Justice William Musyoka yesterday ruled that the senator had the right to be enjoined in the case as an interested party but stick to clearing his name as he had requested.

"The senator's role or participation in the proceedings shall be limited to the matters around the allegations made against him in paragraphs 7, 9, 28 and 34 of the election petition

between David Were on one side and the election agency and Oscar Nabulindo on the other," said Justice Musyoka.

Were, who vied on an ODM ticket in the March 4 by-election, filed the application in April to nullify the polls in which he emerged behind Nabulindo with a gap of 4,000 votes.

Malala said he had been adversely mentioned (45 times) in the petition and wanted an opportunity to defend himself.

[Robert Amalemba]

BACK TO SQUARE ONE



A trader ponders his next move amidst the rubble of a nine-storey building that housed his business in Nairobi. The building that was situated near Kamukunji Police Station started collapsing from the top floors before crashing to the ground. **[Denish Ochieng, Standard]**

Hospital denies holding infants over Sh3.5m bill

► Couple accuses the facility of turning their babies into prisoners at birth while the institution denies holding on to the infants as collateral.

By Kamau Muthoni
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On February 1, this year, Charles Kyalo and his wife Virginia Adhiambo were excited to welcome quadruplets to their family.

The boys were, however, born prematurely and had to spend their first days in a neonatal Intensive Care Unit. They incurred a Sh4 million bill which the parents could not foot.

And this was the genesis of a vicious court battle between the couple and Nairobi South Hospital.

Kyalo and Adhiambo accuse the hospital of turning their babies into prisoners at birth while the hospital, which denies holding on to the infants as collateral, accuses the two of making little effort to raise the balance of Sh3.5 million.

The parents claim the hospital released their two boys on February 26, 2021, but failed to discharge the other two on account that they were still being treated. They claim they were told that they would only be released once they cleared the bill.

"The illegal detention of the minors has exposed the petitioners and the minors to emotional and psychological torture and exposed

the minors to inhuman and degrading treatment. The respondent's act of holding on to the minors as lien directly infringes the minors' rights to liberty and security of persons," court papers filed by the parents' lawyer Alex Mola reads in part.

Kyalo claims that on March 15, he wrote to the hospital demanding it releases the babies unconditionally. However, he says, the hospital demanded that he deposits Sh1 million and make a commitment on how he would foot the bill before the hospital's directors would meet to decide whether to release the boys.

"In holding on to the minors as objects of lien to compel the petitioners to clear the outstanding bill, the respondent has demonstrated that it does not see the minors as human beings, but rather as some objects of value that can be held as ransom for payment," he continued.

But the hospital has a different account of what happened.

In its reply, it claims the minors, who have now been discharged, were underweight. It further claims the parents knew that they had to remain in hospital for medical reasons. They were discharged on March 14.

The hospital argues that the parents have not committed to settling the bill. It argues that when the two came to the hospital, they promised to settle their bill. At the same time, their insurance allegedly committed to pay Sh200,000. It says it has not charged the couple any extra coin.

"The respondent constantly de-

manded and reminded the petitioners to settle the accruing charges, but the petitioners continued to assure the hospital that the bill would be settled in full. At no time did the petitioners inform the hospital that they would not be in a position to settle the said bill. To demonstrate the lack of good faith and reasonableness on the part of the petitioners, they demanded they be allocated a more expensive private room, which greatly added to the overall cost of hospitalisation," the hospital administrator Stephen Ndulu replied.

Ndulu argues that they willingly walked into a private hospital thus should honour their end of the bargain. He argues that they would have gone to a public institution that would settle the bill if they were not able to raise the money.

"There was no emergency that would have stopped the first and second petitioners from seeking the services of government-owned medical facilities or Kenyatta National Hospital where there would have been an obligation on the part of the government to defray part of the cost... It does not sit well for dispensation of justice for the petitioners to seek treatment in a private hospital facility and expect to walk out without paying under the guise of constitutional protection and freedoms," he continued.

He says the bill stands at Sh3.5 million.

The case will be mentioned on October 12.