Affidavit of Protest to Confirmation Where the Inventory Includes Other Peoples Property

Educational sample 267 | 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

SUCCESSION CAUSE NO [reference]

IN THE ESTATE OF [DECEASED]

AFFIDAVIT

1. I am [beneficiary identity and relationship]. I protest the proposed confirmation in Succession Cause [number] to the extent that the inventory or distribution includes [specifically identified properties]. I state my actual interest and the facts supporting the objection, with confidential title details completed for filing.

2. The proposed inventory lists [number and descriptions]. The records for each disputed item are [current search, transfer or other admissible material]. In the source nineteen properties were initially listed; the actual protest must address its own list rather than assume eighteen items are always excluded.

3. For each item said to belong to another person, I identify the registered proprietor, relevant date and source document. A title in another name is distinguished from an alleged beneficial estate interest. Where such an interest is genuinely disputed, I seek proper directions rather than decide the third party rights in this affidavit.

4. Any alleged lifetime gift or distribution is supported by [actual transfer, intention, execution and completion records]. Any transfer after death is separately disclosed, including the person acting and authority claimed. I do not describe a post-death transfer as lawful merely because the source Court left an uncontested matter without enquiry.

5. The one house I accept as estate property is [verified description and basis]. My position on beneficiaries, liabilities, earlier partial confirmation and the proposed shares is [state fully]. I disclose any disagreement and do not treat failure by another person to file submissions as signed consent.

6. I ask that the Court determine the proper estate inventory and distribution at the confirmation hearing, give necessary directions concerning disputed assets and protect affected persons. The genuine annexures are indexed and I will complete the appropriate jurat. This protest is not an unpleaded revocation application.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [competent authorised oath administrator]. This specimen has not been sworn.

Use and evidence notes

Complete the deponent identity, authority and actual personal-knowledge or identified-information basis. Index and authenticate genuine exhibits; missing exhibits are not supplied by this text. An affidavit is evidence, not a vehicle for new unpleaded relief or invented expert conclusions. Obtain any required leave for a further affidavit and complete a valid jurat before a competent authorised person. This specimen is unsworn. Confirmation protest affidavit under the applicable Probate rules, including rule 40(6), subject to court directions. Use genuine property records; an asset objection may need separate title-determination directions and service upon third parties. Apply the Probate and Administration Rules and the actual succession Court directions, rather than assuming ordinary civil motion procedure. Protect any minor or person lacking capacity.

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

Five children disagreed over administration, leading to appointment of the Public Trustee. An initial inventory listed nineteen properties. A beneficiary protested that most belonged to other persons or had been distributed, producing fourteen supporting annexures. One house was agreed to belong to the estate and partially confirmed in 2021. After unsuccessful mediation, the administrator and submitting respondents accepted that this was the sole proved estate asset.

The Court confirmed the grant and directed the one house to devolve equally to the five children, each receiving one fifth. Because physical division might be impracticable, it ordered public-auction sale and distribution of proceeds within ninety days, with a historical compliance mention. The Court expressly left uncertain post-death transfers without further enquiry because they were not contested; it did not certify every such transfer as lawful.

A confirmation protest is part of the confirmation hearing under section 71 and Probate rule 41, not an automatic revocation proceeding. Verify whether property is truly an estate asset, identify every beneficiary and distinguish a registered third-party interest from an alleged beneficial interest requiring proper determination. A one-fifth gross share differs from actual net distribution after lawful sale expenses, liabilities and orders.

[2024] KEHC 15900 (KLR) - 13 December 2024. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2024/15900/eng%402024-12-13

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/public-trustee-v-kamina-3-others-2024-kehc-15900-klr.pdf

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.