Confirmation Protest Submissions on Third Party Assets Equal Shares and Sale Directions

Educational sample 270 | 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]

WRITTEN SUBMISSIONS

1. The Court is determining the confirmation application with its protest, under section 71 and the applicable Probate rules. It must be satisfied about the representatives, assets, beneficiaries and lawful distribution. An asset dispute does not automatically require revocation where that substantive relief has not been sought.

2. The initial nineteen-property inventory is tested against [searches, transfer material and protest annexures]. The accepted house is [record]. Each other item should be excluded, retained as unresolved or directed to its proper determination only on the genuine evidence and after protecting affected third parties.

3. Alleged lifetime gifts and post-death transfers must be distinguished. The source Court noted unclear later transfers but left them unexamined because they were not in contention. That procedural treatment does not establish that every transfer had a valid grant, confirmation or authority.

4. The proposed one-fifth shares rely on the actual five entitled children and the applicable law, with all other surviving or dependant interests disclosed. The absence of submissions by a protestor is considered against the file; it is not automatically a written consent or proof that every disputed fact is admitted.

5. If physical division is impracticable, the Court should give clear lawful sale, valuation, notice, accounting and net-distribution directions. The source ordered public auction and equal proceeds. A requested different sale mechanism, deduction or representative arrangement needs its own evidential and legal justification.

6. The requested outcome is confirmation of the proved inventory and lawful shares, determination or directions on the protest, appropriate sale safeguards and reporting, and costs as justified. The historical ninety-day completion direction and compliance mention do not prove later performance or create permission to sell before the necessary order.

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. 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.