Succession Submissions on Proper Revocation Prayers and the Limits of Interim Relief

Educational sample 265 | 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 threshold question is whether the application before the Court actually seeks substantive revocation or annulment of an identified grant in the proper procedure. The Court should read the filed summons and any authorised amendment, rather than infer the prayer from an affidavit or the advocate submissions.

2. Rule 44 requires the applicable Form 107 summons and supporting affidavit identifying the cause, grant, grounds and administration status. The Applicant must state the section 76 basis and the genuine facts supporting it. A document headed chamber summons with only temporary prayers does not obtain substantive revocation by implication.

3. An injunction pending the inter partes hearing of the same interim-only application can exhaust that application without leaving substantive relief to determine. Preservation should be connected to an actual proceeding and prayer under the applicable power. The source Court struck out the deficient application rather than decide the alleged will and fraud merits.

4. If a properly pleaded substantive application is before the Court, the foreign will, grant, Kenyan resealing, domicile and asset issues require their own authenticated evidence and legal analysis. An asserted marriage or dependency must likewise be determined from its evidence, not from the earlier procedural ruling.

5. Dates and instrument identity must be verified because the reported source uses differing grant and confirmation dates. Any proposed amendment, fresh application or substantive correction must follow the Court directions and appropriate service. The parties are not assumed to have obtained such permission already.

6. The requested order is [determination of proper application, directions or substantive relief supported on the actual file], with appropriate costs. These submissions do not request relief absent from the summons, introduce new foreign documents or claim that the reported strike-out settled the estate ownership.

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

A claimed foreign executor challenged a Kenyan intestate administration in an estate involving Kenyan land and a foreign will and grant. He relied on a later Kenyan resealing certificate. The administrators disputed the effect of the will on Kenyan assets, alleged a customary marriage and dependency, and opposed the claim. The filed chamber summons sought only temporary injunctions pending its own inter partes hearing, although affidavits and submissions asked for revocation.

The High Court struck out the chamber summons because it contained no substantive revocation or annulment prayer and did not use the rule 44 Form 107 summons. It declined to consider the merits. The decision did not establish fraud, invalidate either grant, decide the will effect on Kenyan assets or finally determine spouse or dependant status. Dates for the intestate grant and confirmation differ within the source narrative and must be verified from the actual instruments.

Section 76 and Probate rule 44 require the proper revocation application, including the grounds, identified grant and rule 44 affidavit/Form 14 requirements. Relief in an affidavit or submissions does not replace the prayer in the application. Authenticate a foreign will, grant, translation and any Kenyan resealing order, addressing the applicable succession and recognition law without assuming every foreign grant is automatically enforceable here.

[2025] KEHC 1523 (KLR) - 14 February 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2025/1523/eng%402025-02-14

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/in-re-estate-of-wolfgang-walter-wirth-deceased-2025-kehc-1523-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.