Demurrage Decree Security and Appeal Delay Chronology Schedule

Educational sample 254 | 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 APPEAL NO [reference]

[APPELLANT] v [RESPONDENT]

EVIDENCE OR COMPUTATION SCHEDULE

1. This schedule separates the judgment chronology from the money and storage account. Record judgment date, appeal filing, request for proceedings, response, record availability, actual record filing, stay filing and service. Give genuine document references and mark any unexplained interval.

2. The historic decree referred to KSh 13,583,667 with fifty-per-cent liability allocated to each of two parties. Arithmetic half of that principal is KSh 6,791,833.50. Whether that amount is presently due, and the treatment of interest, costs or other parties, must follow the actual authenticated decree.

3. Continuing demurrage is listed by vehicle anonymised label, storage period, daily or other contract rate, tariff proof, collection date, charges billed, payments and disputed balance. The source decree uses dates requiring careful transcription; do not assume a rate or duplicate charges already included in the historic total.

4. List collection rights and conditions separately from monetary liability. Identify the party permitted to pay, collect and recover against another party, with the decree paragraph. A stay of execution does not itself release vehicles or terminate a storage contract.

5. Security entries state the precise form, amount, available funds, proposed custodian, realistic deposit date and coverage of principal, interest and costs. Record whether security is offered, ordered or actually deposited. An offer to deposit only part of a half share is not treated as full due-performance security.

6. Add actual payments, refunds, security releases and remaining liability without double credit or double recovery. This schedule supports a properly evidenced motion or opposition; it does not cure an unexplained ten-month delay, constitute an appeal record or authorise collection contrary to the 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

This is an evidential or accounting aid, not an originating process or independent proof. Give dates, authors or custodians, admissibility status, actual document pages and transparent calculations. Label missing and disputed items. Obtain the applicable leave or directions for supplementary evidence, serve it and prevent duplicate credits or recovery.

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 dispute over ownership of imported vehicles generated storage charges. The trial order allocated KSh 13,583,667 and further demurrage between two parties at fifty per cent each, with interest and costs. One liable company filed an appeal in August 2023 but sought a stay only in April 2024 after a July 2023 judgment. Its officer asserted repayment risk and offered security, while the vehicles continued accumulating charges.

The High Court dismissed the stay application with costs because the roughly ten-month delay was unexplained and the applicant had not filed its available appeal record. The ruling did not determine the final appeal merits or hold that every large demurrage decree warrants a stay. Order 42 rule 6 permits the appellate court to consider stay whether the court below granted or refused one; an opponent contrary assertion was not a statutory prerequisite adopted by the Court.

An appeal does not automatically stay execution. Under Order 42 rule 6, address substantial loss with evidence, explain every relevant delay and propose adequate security for due performance. Keep existing judgment debt, continuing storage charges, collection rights and mitigation separate. A corrected specimen cannot supply a missing explanation or stop accruing charges without an actual order or agreement.

[2025] KEHC 1381 (KLR) - 21 February 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2025/1381/eng%402025-02-21

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/diamond-shipping-services-limited-v-kencott-cfs-3-others-2025-kehc-1381-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.