Wayleave Officer Affidavit Disclosing Earlier Litigation and Pipeline Safety Evidence

Educational sample 242 | 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 ENVIRONMENT AND LAND COURT AT MOMBASA

LAND CASE NO [reference]

[CLAIMANT] v [RESPONDENT]

AFFIDAVIT

1. I am [wayleave officer identity and authority]. I respond to the application concerning [redacted parcel]. I identify the land and operational records within my knowledge or custody and state separately information obtained from the company advocates and court file.

2. The earlier proceeding was [case reference]. Its parties, parcel description, interim ruling date and subsequent disposal are set out from [certified documents]. I disclose that dismissal for want of prosecution differs from a final merits judgment and identify the specific interim issue previously determined.

3. The current application refers to [current parcel], whereas the earlier pleadings refer to [earlier parcel]. The verified relationship between them is [plan and author]. I cannot establish identical land by saying the parcels adjoin; the relevant structures and boundaries must be located by admissible evidence.

4. The authority material supplied with the current application and later reply consists of [documents and dates]. The source discrepancy involved a claimed fifty-five residents and later lists totalling sixty-one names. In this actual file I identify the real numbers, signatures and dates without asserting forgery from an inconsistency alone.

5. The asserted pipeline safety risk rests on [engineering or operational record, qualified author and evidence]. The consultation held and notices actually served were [dates, recipients and proof]. Attendance at a public meeting is distinguished from lawful notice to each person affected by a proposed eviction.

6. The interim order prevents [precise act], with operational impact [supported facts]. I disclose any alternative measure, ongoing proceeding and later order material to urgency. No annexure or safety conclusion is invented, and I do not claim this affidavit independently authorises demolition.

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.

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 resident sought protection against demolition on a claimed Mombasa parcel and purported to represent fifty-five others. The utility pointed to earlier litigation concerning a neighbouring parcel, a refused 2019 interim application and a suit later dismissed for want of prosecution. The plaintiff supplied later undated lists containing sixty-one names. The utility own motion cited party-joinder provisions for relief that instead concerned vacating interim orders and striking out.

The Court dismissed the plaintiff motion, struck out the utility motion for its inappropriate procedural basis and vacated the interim status-quo order. It criticised non-disclosure, uncertainty over the parcel and missing contemporaneous authority. It treated the repeated interim issues as res judicata. It did not finally dismiss the entire substantive suit through the defective utility application or approve every future demolition.

Distinguish authority to act for named co-parties under Order 1 rule 13 from a representative action under rule 8. A dismissed main suit and an earlier decided interim issue require separate analysis under sections 6 and 7. Use the provision matching the specific relief: Order 40 rule 7 for discharge or variation of an injunction, with an appropriate application under Order 51. Do not copy the unsuccessful joinder-rule motion.

[2025] KEELC 1342 (KLR) - 19 March 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelc/2025/1342/eng%402025-03-19

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/masha-v-kenya-pipeline-company-limited-2025-keelc-1342-klr

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.