Motion for Possession Status Quo Pending a Tenancy Appeal

Educational sample 337 | 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

ENVIRONMENT AND LAND APPEAL NO [reference]

[LANDLORD APPELLANT] v [TENANT RESPONDENT]

NOTICE OF MOTION

1. The Applicant requests [precisely identified preservation order] pending determination of the appeal against [BPRT order]. This proposed motion concerns the current possession and implementation of that order, not determination of rent arrears or the lawfulness of every prior eviction.

2. The impugned order, appeal filing date and current occupation position are supported by [certified record and affidavit]. The Applicant identifies who is actually occupying each shop and what imminent act is sought to be restrained. No current occupant is omitted where the relief would affect that person.

3. The evidence of threatened prejudice is [actual notice, intended enforcement or other supported event]. The Applicant states the applicable interim-relief test, reasons for promptness and any appropriate undertaking or security. A pending appeal alone does not suspend the Tribunal order.

4. All earlier interim applications and their dispositions are disclosed, including any motion before the Tribunal. If withdrawal is relied upon, identify the notice and order showing it took effect. The Applicant does not maintain inconsistent undisclosed applications for the same interim relief.

5. The Applicant seeks inter partes directions, lawful service on affected persons, the stated preservation order and costs in the appeal. This is newly proposed procedural wording, not a claim that the 2025 source judgment granted this motion or authorised a fresh lockout.

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

Use the actual existing cause, applicable power and precise interim or substantive prayers with genuine supporting evidence. Disclose adverse facts, earlier applications, current orders and delay. Complete affidavit, exhibits, urgency certificate only where justified, fee and service under current directions. A proposed corrected motion does not establish that the missing facts or procedural permission exist. Identify the lawful interim power and order actually sought. A status quo order must describe possession precisely. The March 2022 related ruling dismissed a preliminary objection; it did not decide the interim motion merits.

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 landlord appealed the Mombasa BPRT reinstatement and occupation orders concerning commercial shops in Diani. The record discussed a short written tenancy, disputed arrears and prior eviction, another Kwale suit and the death of a director. The appeal was heard in Mombasa.

Despite a metadata dismissal label and contradictory sentence in paragraph 49, paragraph 47 and operative order 49(a) partially allow the appeal on the listed tenancy grounds and order 49(c) awards appeal costs to the appellant. The certified decree is needed before acting on the ambiguous substitution wording.

Cap 301 controlled-tenancy termination procedure is distinct from self-help eviction. An ongoing suit is not automatically res judicata; corporate-director death does not automatically establish abatement. The text gives differing tenancy and eviction descriptions. The specimens identify the dispute instead of presenting one inconsistent date as established.

[2025] KEELC 289 (KLR) - 31 January 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/ess-pee-ess-investment-v-deegisat-tv-service-limited-applying-as-legal-administrators-of-the-estate-of-the-late-oloo-agoro-oloo-2025-keelc-289-klr

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/ess-pee-ess-investment-v-deegisat-tv-service-limited-applying-as-legal-administrators-of-the-estate-of-the-late-oloo-agoro-oloo-2025-keelc-289-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.