# Grounds of Objection Defending Children s Inheritance Status

Educational sample 087 | Supreme Court of Kenya at Nairobi

Educational reconstruction based on a reported Kenyan decision. This is newly drafted text, not an original court filing, not a matter handled by our team, and not proof that a sample argument succeeded. Parties, parcels and identifying case details in the specimen are replaced with bracketed fields. Do not sign, swear or file it without checking your facts, jurisdiction, applicable rules and court directions.

## Reconstructed formal document

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA AT NAIROBI

CASE OR APPLICATION NO [insert appropriate reference]

[APPLICANT OR CLAIMANT] v [RESPONDENT OR DEFENDANT]

GROUNDS OF OBJECTION

1. The Respondents oppose the petition served on [date] and seek affirmance of the appellate decision on the identified children’s beneficiary or dependant status. These grounds answer the petition’s legal contentions; disputed facts are addressed only through the admissible record or a properly filed affidavit.

2. Ground one: the petition treats the qualification in Article 24(4) as a blanket permission to exclude children. The claimed qualification must be evaluated in its constitutional text, scope and necessity, together with the rights actually affected.

3. Ground two: the parents’ marital status does not, without the required constitutional justification, defeat the protection owed to a child under Articles 27 and 53. A separate finding about a claimant widow’s capacity cannot automatically decide the child’s entitlement.

4. Ground three: section 2(3) of the Law of Succession Act must be applied consistently with the Constitution. Recognition that Muslim succession law applies does not remove the court’s duty to interpret and apply the law through the Bill of Rights.

5. Ground four: the appellate findings concerning acknowledgement and provision for the relevant children are at [pages]. The Respondents rely on those findings and the supporting record, not on an invented genetic test or an assumption that every person claiming to be a child proved parentage.

6. Ground five: the appeal should distinguish the children specifically covered by the appellate disposition from any person whose exclusion was not challenged or whose relationship was not established. The Respondents identify the actual beneficiaries by confidential filing details and redacted public fields.

7. The Respondents seek dismissal of the petition, preservation of the recognised children’s status and appropriate directions for administration and determination of entitlements by the competent succession court. They do not ask this response to manufacture fixed inheritance shares.

8. Costs and consequential orders are left to the Court’s discretion on the family dispute and public-interest considerations. Any request to vary the judgment beyond affirmance will use the applicable cross-appeal or other procedural route.

DATED at [place] on [date]. [Signature of party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected party and address].

## Use and evidence notes

Rule 42 ordinarily requires the response within fourteen days of service unless otherwise directed. A respondent may file grounds, an affidavit, or both. Do not label this document Form H. The linked decision remitted distribution to the High Court at Mombasa; Nairobi is the Supreme Court appellate registry.

R1 petition paragraphs answered; R2 appellate findings and record pages; R3 properly admitted evidence of acknowledgement and family relationship.

## Source and procedural limits

A succession dispute originating in Mombasa concerned claimed widows and children of a Muslim deceased. The appeal questioned whether children could be excluded because of their parents' marital status and how Muslim succession law interacts with constitutional rights.

The Supreme Court dismissed the exclusion appeal and affirmed the identified children's beneficiary or dependant status. Joint administration by two widows was ordered and the matter remitted to the High Court at Mombasa to determine entitlements. It did not set individual inheritance fractions.

Constitution Articles 20(3), 24(4), 27, 53 and 163(4)(a); Law of Succession Act section 2(3); Supreme Court Rules 2020 rules 38–42. Underlying succession proceedings remain Mombasa proceedings; this specimen concerns appellate filing at the Nairobi Supreme Court.

Supreme Court Petition E035 of 2023 — 30 June 2025. Source: https://supremecourt.judiciary.go.ke/wp-content/uploads/2026/07/F-A-A-F-Vs-R-F-M-2-others-SC-Petition-No.-E035-of-2023-Judgment-30th-June-2025.pdf

The linked original judgment may identify parties. This public specimen omits their names. Historical allegations are not presented as established facts. A different result in your own proceedings is possible.