Historical Petition of Appeal on Muslim Succession and Child Status

Educational sample 086 | 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]

PETITION OF APPEAL

1. The Petitioner appeals from the Court of Appeal judgment dated [date] in the succession litigation originating in Mombasa. Jurisdiction is invoked under Article 163(4)(a) on constitutional issues decided below, identified at [pleading and judgment pages].

2. The deceased was Muslim. The dispute concerned claimed family relationships and the effect of those relationships on succession. The Petitioner sought application of Muslim inheritance rules and challenged the appellate treatment of certain children as beneficiaries or dependants.

3. The first historical ground contended that Article 24(4), concerning application of Muslim law in succession before Kadhis' courts, required a different assessment of the equality question. The asserted qualification and its claimed necessity must be stated precisely, rather than asserted as a blanket exemption from the Constitution.

4. The second historical ground challenged the treatment of children whose parents' marriages were disputed. The Petitioner identified the appellate finding being challenged and the record basis, without assuming that a child's rights and a claimant mother's marital capacity were identical questions.

5. The third historical ground relied on section 2(3) of the Law of Succession Act. The legal issue was how its Muslim-law provision should operate consistently with Articles 20, 27 and 53, not whether an ordinary statute could simply displace constitutional rights.

6. Any factual challenge concerning parentage or acknowledgement is tied to evidence actually considered below at [pages]. No DNA result is asserted where none was obtained, and no new testing request is embedded in a petition as though already authorised.

7. The historical prayer sought setting aside of the appellate beneficiary finding and further succession directions. In a current matter any proposed exclusion solely because of the parents' marital status must confront the Supreme Court's adverse holding in the linked judgment.

8. The petition schedule identifies the lower pleadings, judgments and relevant relationship evidence. This reconstructed historical argument is presented for procedural study; it is not a recommended means of defeating the rights affirmed in the source decision.

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

The Supreme Court dismissed this exclusion appeal in June 2025. A current practitioner must apply that holding, not copy the historical prayer as if it succeeded. Form G structures a petition, while Form H is a notice of address for service and is not a response form. No inheritance fractions are supplied by this specimen.

S1 notice of appeal; S2 Court of Appeal judgment; S3 relevant succession pleadings and judgment; S4 existing acknowledgement and relationship evidence; S5 precise constitutional issues decided below.

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.