Petition of Appeal to Restore Distribution Route Conservatory Orders

Educational sample 121 | Nairobi

Educational reconstruction from a reported Kenyan judgment. This is newly drafted text, not an original court filing and not a matter handled by our team. Identifying details are replaced with bracketed fields. Verify the facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA

PETITION OR APPLICATION NO [reference]

[APPELLANT OR APPLICANT] v [RESPONDENT]

PETITION OF APPEAL

1. The Appellant appeals the judgment setting aside the High Court’s conservatory orders protecting the disputed distribution arrangements pending determination of the amended petition.

2. Article 163(4)(a) is invoked because the lower courts determined constitutional property, equality and association questions and their relationship with arbitration. This is not a general appeal from every discretionary interim order.

3. The Appellant paid KES 27,300,000 goodwill for the expanded territories. It disputes repossession and reallocation of routes and identifies the relevant contracts, payments and route letters at [record pages].

4. The first ground concerns referral of constitutional questions and parties outside the arbitration agreement to a private forum. The second concerns the legal effect of acts undertaken contrary to the operative conservatory order.

5. The Appellant seeks restoration of the High Court orders and remittal of the petition and disobedience question. It does not ask for a final refund decree or a punishment fixed without the required hearing.

DATED at [place] on [date]. Signed [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

Complete the court, parties, appealed decision and service fields. Rule 39 requires concise facts, grounds, supporting arguments, relief and an annexure schedule in Form G. This core pleading must accompany the applicable record and fee under rule 38. Establish the Article 163(4) gateway and check notice, filing and service dates. A historical losing argument is not a recommended new ground. Do not attempt to reopen a decided case merely by using this specimen.

Schedule of annexures: [index each relevant document by label, date, description and page]; [identify the appealed judgment]; [trial judgment or order]; [relevant pleadings]; [certification ruling, if applicable].

Source and procedural limits

A distributor paid KES 27,300,000 goodwill for allocated territories and disputed repossession and reallocation of routes. The High Court granted conservatory protection; the Court of Appeal set it aside and directed arbitration. The Supreme Court addressed constitutional jurisdiction, third parties and disobedience of the court order.

The Supreme Court allowed the appeal, restored the High Court orders and remitted the amended petition for hearing. The High Court was to consider the consequences of disobedience. Costs in the appellate courts were awarded against the first two respondents. The Court did not award a final goodwill refund or fix contempt punishment.

Constitution Articles 27, 36, 40 and 163(4)(a); distinction between public law conservatory relief and private interlocutory injunctions; limits of an arbitration clause affecting third parties. Final liability and quantum remained for the High Court.

[2023] KESC 14 (KLR) — 17 February 2023. Original judgment: https://supremecourt.judiciary.go.ke/wp-content/uploads/2025/01/Supreme-Court-Law-Reports-2023-Vol-1.pdf#page=480

The original decision may identify participants. The specimen replaces their identifying details. A source decision is not proof that a draft was filed, that an allegation succeeded, or that the same result will follow in another case.