Appellant Submissions Distinguishing Evidence Gathering from Foreign Judgment Execution

Educational sample 109 | 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]

WRITTEN SUBMISSIONS

1. The Appellants ask the Court to distinguish a request to obtain evidence from an attempt to execute a foreign award. That distinction identifies the assistance problem but does not eliminate Kenyan procedural safeguards.

2. The sealed orders, the expert instructions and the proposed inspection scope must be read together. A visit confined to observation is not interchangeable with sampling, medical examination or unrestricted disclosure.

3. The Appellants rely on constitutional access to justice and international cooperation. Those principles must be connected to a lawful Kenyan power, rather than treated as a free-standing permission to enter private premises.

4. The Court should consider whether the existing commission and request procedures address the identified evidence and what participation is required of the operator. This does not invite it to legislate a new assistance code through a sample pleading.

5. The alternative relief is a reasoned procedural direction, not an immediate merits finding on workplace injuries. The source appeal failed; the legislative recommendation did not itself authorise the proposed visits.

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

Put evidence in the admitted record and identify page references for every material factual proposition. Submissions do not introduce evidence. Check the Court's directions on filing, length, authorities and service. Address jurisdiction before merits, answer the opponent's actual objection and state the requested disposition. If the source argument failed, explain why rather than describing it as a successful precedent.

Authorities and record references: [authority and proposition]; [relevant admitted document and page]; [court direction governing this filing].

Source and procedural limits

Seven serving or former employees pursued personal injury proceedings in Scotland concerning work on Kenyan tea estates. Scottish orders authorised site inspections by experts. The employer sought Kenyan court scrutiny before implementation. The Supreme Court considered foreign orders, territorial judicial authority and the appropriate judicial assistance route.

The employees' appeal was dismissed, with each party bearing its own costs. The Court directed urgent legislative consideration of assistance in obtaining evidence for foreign civil proceedings. A foreign inspection order does not operate in Kenya automatically.

Constitution Articles 1, 2, 50 and 159; Civil Procedure Act section 9; Foreign Judgments Reciprocal Enforcement Act; Civil Procedure Rules Order 28. Recognition of a foreign final judgment and assistance with an interlocutory inspection request are different questions. Check later legislation and the actual instrument.

[2023] KESC 22 (KLR) — 31 March 2023. Original judgment: https://supremecourt.judiciary.go.ke/wp-content/uploads/2025/01/Supreme-Court-Law-Reports-2023-Vol-1.pdf#page=324

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.