Grounds of Objection to Automatic Enforcement of a Foreign Inspection Order

Educational sample 108 | 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]

GROUNDS OF OBJECTION

1. The Respondent opposes the contention that an interlocutory order of a foreign court authorises direct inspection of Kenyan premises without Kenyan judicial scrutiny.

2. The orders must be classified accurately. The reciprocal enforcement legislation does not automatically convert every foreign evidential direction into an executable Kenyan judgment.

3. Judicial authority over Kenyan premises is exercised through the Kenyan legal system. International cooperation must follow a legally available assistance process and afford affected persons an opportunity to be heard.

4. The Respondent does not ask the Supreme Court to decide the employees' personal injury claims or to retry the foreign proceedings. Its objection concerns territorial implementation and the proposed activities.

5. The appeal should be dismissed, with any further assistance request brought through the competent Kenyan procedure. The costs question should account for uncertainty about the appropriate route, separately from the merits.

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

Under the official Supreme Court Rules 2020, rule 42 permits grounds of objection, an affidavit, or both, ordinarily within fourteen days of service unless directed otherwise. Check current directions and actual service. Keep objections within the appealed issues; facts need admissible evidence. Different relief or a different ground for affirmance may need the applicable cross-appeal or notice procedure. A response is not an automatic permission to introduce new issues.

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.