Respondent Submissions on Territorial Authority and Foreign Evidence Requests

Educational sample 110 | 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 question is whether the foreign interlocutory orders have direct force in Kenya. They do not acquire such force merely because the foreign court was entitled to hear the underlying claims.

2. Section 9 of the Civil Procedure Act and reciprocal enforcement legislation address specified recognition questions. The Court must examine the type of order and the assistance sought before selecting the applicable route.

3. Order 28 and commission procedures should be considered within their actual scope. A witness examination commission is not automatically a permission for every proposed site inspection or experiment.

4. The operator and other affected persons require a Kenyan hearing of the proposed implementation terms. Reasonable safeguards can protect evidence gathering while respecting territorial jurisdiction and property interests.

5. Dismissal of the appeal should not be expressed as dismissal of the employees’ foreign injury claims. The Court may acknowledge a legislative gap and direct that it be addressed without granting automatic entry.

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

Answer the actual pleaded grounds and the Appellant’s authorities. Identify the record pages relied upon and any genuine limits of jurisdiction. An argument that failed in the source case remains marked historical. New affirmative relief may require a cross-appeal; do not obtain it by adding a prayer to submissions. Follow current filing, bundle and service directions.

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.