Petition of Appeal on a Parental Agreement Displaced by Foreign Family Orders

Educational sample 111 | 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 affirming dismissal of the constitutional petition concerning the child’s welfare and the effect of the Kenyan parental responsibility order.

2. Jurisdiction arises under Article 163(4)(a). The superior courts determined the interaction between Article 53, parental responsibility, fair hearing and the foreign family decisions.

3. The first ground is that the courts treated the foreign findings as sufficient to disregard a Kenyan agreement adopted as a court order without examining its legal status or a competent variation process.

4. The second ground is that the parties to the agreement were not given the required Kenyan hearing before its practical displacement. The precise proceedings and orders relied on appear at [record pages].

5. The Appellant seeks reversal and declarations confined to the identified constitutional questions. The child’s current age must be stated. No prayer may compel an adult to live with or contact a parent.

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

Divorced parents had a parental responsibility agreement covering custody, schooling, medical care and maintenance. It was later adopted as a Kenyan High Court order. English family proceedings produced competing directions. The Kenyan courts rejected the mother’s constitutional claim. During the Supreme Court proceedings the child reached eighteen.

The Supreme Court allowed the appeal and set aside the Court of Appeal judgment. It held that the Kenyan agreement and order could not simply be disregarded through reliance on the foreign findings. Each party bore its own costs. Once eighteen, the young adult could choose where to live and whether to have contact.

Constitution Article 53 and Article 163(4)(a); status and variation of a parental responsibility agreement; fair hearing and treatment of foreign decisions. The judgment discusses the repealed Children Act. Adapt current applications to the Children Act 2022 and the person’s actual age; do not demand minor custody over an adult.

[2023] KESC 21 (KLR) — 2 March 2023. Original judgment: https://supremecourt.judiciary.go.ke/wp-content/uploads/2025/01/Supreme-Court-Law-Reports-2023-Vol-1.pdf#page=371

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.