Appellant Submissions on Untaxed Costs and a Security Condition Blocking Hearing

Educational sample 129 | 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 certified question concerns the security order, not final ownership of the transaction deposit. The Court should keep that jurisdictional boundary explicit.

2. A discretionary amount requires reasons tied to demonstrated risk and likely costs. A large untested estimate cannot, without explanation, determine the amount of additional security.

3. The existing disputed deposit of KES 185,000,000 held by the opposing bank is a relevant circumstance. It is not presented as conclusive proof of the Appellant’s ownership or as permission for unilateral set-off.

4. The condition preventing a hearing or causing automatic disposal must be examined against Articles 48, 50 and 159. The practical effect of the order matters as well as the abstract existence of a security power.

5. The requested remedy is removal of the unreasonable condition and return of the substantive appeal to the Court of Appeal. The source outcome did not abolish additional security in appropriately justified cases.

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

A failed hotel transaction generated a claim concerning a KES 185,000,000 deposit held by the bank. After the suit was dismissed, the Court of Appeal ordered KES 20,000,000 additional security as a condition for the appeal. The Supreme Court considered the certified security question, not the merits of deposit recovery.

The Supreme Court allowed the appeal on the specific security issue, set aside the conditional order and remitted the substantive appeal to the Court of Appeal. Each party bore its own costs. Security for costs is not unconstitutional in every case, and deposit refund was not finally adjudicated.

Constitution Articles 48, 50 and 159; Article 163(4)(b) certification; proportionate exercise of security discretion. The source discusses the historical Court of Appeal rules and nominal security. Current amounts and rule numbering must be verified before a new application.

[2023] KESC 11 (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=529

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.