# Certified Petition of Appeal Against Disproportionate Additional Security

Educational sample 126 | 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 order requiring KES 20,000,000 additional security before the substantive appeal can be heard. The order and certification ruling are identified at [record pages].

2. Jurisdiction is invoked under Article 163(4)(b), within the certified question concerning additional security and access to justice. The Appellant does not convert that certification into an unrestricted appeal about deposit ownership.

3. The underlying litigation concerns KES 185,000,000 paid towards a hotel transaction. The bank retains the disputed deposit, but entitlement to repayment remains contested.

4. The grounds concern the absence of a reasoned basis for the amount, the treatment of untaxed estimated costs and the conditional dismissal consequence. The Court must evaluate the balance between costs protection and effective access.

5. The Appellant seeks setting aside of the conditional security order and determination of the substantive appeal on its merits. It does not seek a final refund decree within the certified security question.

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

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.