Spouse Priority Submissions for Revocation and Joint Estate Administration

Educational sample 215 | 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 HIGH COURT AT NAIROBI MILIMANI FAMILY DIVISION

SUCCESSION CAUSE NO [correct reference]

IN THE ESTATE OF [DECEASED] — [APPLICANT] AND [RESPONDENT]

WRITTEN SUBMISSIONS

1. The first issue is whether the Applicant has proved the alleged customary marriage. The Court is invited to evaluate the ceremony witnesses, notes, photographs, cohabitation and other admitted evidence together. Conflicting dates or missing signatures must be addressed expressly, rather than replaced by a standard assertion of marriage.

2. If spousal status is proved, the next issue is the petition omission. The Applicant relies on [petition paragraphs and proved knowledge] to establish the applicable section 76 ground. A finding that the spouse exists and a finding of wilful concealment are separate questions requiring reasons.

3. Section 66 gives the Court final discretion in appointing representatives in the interests of all concerned. The Applicant claimed priority is a relevant factor, not an automatic entitlement to sole appointment or exclusion of every child representative. Suitability and continuing trusts for minors require attention.

4. The requested remedy is revocation, an appropriate fresh joint grant and a full inventory and dealings account. Fresh confirmation and distribution require their own proper process. Allegations about vehicle or bank transactions must be investigated on their evidence and are not retrospectively legitimised by recognition of a marriage.

5. The proposed orders identify the representatives, accounting period, fresh-confirmation timetable and compliance mention, as fixed by the Court. Costs and any appeal procedure require separate consideration. No historical 2025 date is presented as a deadline governing a newly filed matter.

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

Use the pleaded application, admitted evidence and current directions. Distinguish a spouse status from appointment discretion, and a Court-appointed representative from a donee. Section 74 rectification has limited scope; substantive changes need the proper application. Requested relief and the actual final orders are different. Submissions do not introduce new facts, legitimise estate dealings or prove later compliance. The reported marriage evidence contained date discrepancies. Recognition of marriage did not dispose of every vehicle allegation or award the whole estate. The 2025 compliance timetable is historical.

Supporting material schedule: [document date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach only genuine available records and mark missing records accurately.

Source and procedural limits

An alleged customary spouse was omitted from a petition describing only three children. She, her father and a maternal uncle gave oral evidence of the marriage ceremony and cohabitation; administrators disputed marriage and raised vehicle dealings. A grant issued in April 2022 had been confirmed in January 2023. Witness accounts contained differences requiring evaluation.

The Court found a Kamba customary marriage and wilful concealment. It revoked the grant and ordered a fresh joint grant to the spouse and the three existing administrators, inventory and accounts by 29 October 2025, fresh confirmation within 60 days and a compliance mention. No costs were awarded. It did not give the spouse the whole estate or approve disputed vehicle transactions.

Section 76 and Probate rule 44 govern revocation; section 66 leaves appointment to the Court best-interest discretion. A spouse priority does not automatically require sole administration. Establish customary marriage through actual evidence, not an affidavit alone. Minor beneficiaries and all estate dealings remain material. Historical compliance dates are not current filing deadlines and do not prove later compliance.

[2025] KEHC 13024 (KLR) — 19 September 2025. Original judgment: https://sheriahub.com/cases/ke/caselaw/in-re-estate-of-len-bomett-decesaed-2025-kehc-13024-klr

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.