Kadhi Succession Petition for Two Houses Without Land

Educational sample 411 | Lamu

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE KADHIS COURT AT LAMU

SUCCESSION CAUSE NO [reference]

IN THE ESTATE OF [DECEASED]; [PETITIONER] AND [RESPONDENT]

SUCCESSION PETITION

1. The petitioner seeks determination of the deceased [parent] heirs and distribution of the estate under applicable Muslim inheritance law. The deceased died at [place and date]. The petitioner relationship and the complete surviving family are set out at [family schedule], including deceased relatives and any issue requiring proof.

2. The petition concerns inheritance, and the parties profess the Muslim faith and submit to this Court jurisdiction as established at [actual particulars]. The petitioner does not assert that residence in Lamu or one party faith alone supplies the constitutional requirements.

3. The asserted estate comprises two houses without land, identified by [house and plot references, location and records]. Occupation by [persons] is disclosed. The petitioner requests ascertainment of the buildings and the estate interest without assuming ownership of the underlying plots.

4. The respondent claims a lifetime gift excluding the houses from distribution. The petitioner disputes that gift and identifies the missing direct evidence, conflicting accounts and genuine house records at [pages]. Payment of rates is acknowledged only to the extent established and is treated as a separate reimbursement issue.

5. All known heirs and affected persons are listed for lawful service and hearing. The petitioner requests valuation and appropriate directions where needed, with the actual estate debts and reimbursable expenditure disclosed. No fixed fractional entitlement is supplied without the complete family and applicable law.

6. PRAYERS: identify the lawful heirs; ascertain the two houses and any valid exclusion; determine proved estate expenses; and direct distribution under applicable Muslim law, with appropriate costs. This wording is a Kadhi inheritance specimen, not a petition asserting that letters of administration have already issued.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Use the actual Kadhi succession petition procedure and current registry directions. Establish Muslim inheritance subject matter, all parties Muslim faith and submission to jurisdiction under article 170(5), death, complete heirs and estate inventory. Distinguish houses without land from ownership of underlying land. This specimen is not a High Court petition for letters of administration.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A Lamu Kadhi succession petition concerned whether a deceased parent left one or two houses without the underlying land. One child asserted an earlier lifetime gift and relied on rates/rent receipts. The opposing child sought identification of heirs and distribution. Documents, Arabic descriptions, witnesses and house/plot numbering conflicted.

Malindi High Court allowed the appeal, identified two houses and directed distribution among seven identified heirs under Islamic law. Rates paid for the estate were to be reimbursed. Each party bore own appeal costs. The alleged gift was not proved. The judicial heading and signature identify Malindi despite erroneous Mombasa reproduction metadata.

For a Kadhi inheritance petition establish article 170(5) and section 5 jurisdiction, including faith and submission of all parties. The source High Court distinguished estate ascertainment from a separate land-ownership suit and sat with the Chief Kadhi. Do not use ordinary probate grant forms mechanically, invent fractional shares or merge ownership of houses with ownership of land.

[2020] eKLR - 28 February 2020. Source decision: https://sheriahub.com/cases/ke/caselaw/harun-omar-bausi-v-ahmed-omar-bausi-2020-eklr

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The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.