Inheritance Appeal Submissions Separating Gift Proof From Rates Payments

Educational sample 415 | Malindi

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 HIGH COURT AT MALINDI

CIVIL APPEAL FROM KADHI SUCCESSION NO [reference]

[APPELLANT HEIR] v [RESPONDENT HEIR]

WRITTEN SUBMISSIONS

1. The appellant asks the Court to assess the inherited houses from the full trial record. The receipt descriptions identify two buildings, even though house and plot numbers were not consistently expressed. The actual records at [pages] must be reconciled before the inventory is settled.

2. The respondent claimed a lifetime gift. The person said to hold the documents was not called in the source and accounts of the transaction were inconsistent. The appellant relies on those evidential gaps, not a general rule that every lifetime gift requires a written will.

3. The rates receipts establish expenditure and assist identification of the houses. They do not alone establish a donor act transferring exclusive ownership. A reimbursement claim can be recognised without accepting the asserted exclusion of the buildings from the estate.

4. The issue is estate ascertainment and inheritance of houses without land. It is not automatically a separate determination of the title to the underlying plots. The source High Court considered that distinction and disagreed with the Chief Kadhi contrary jurisdictional opinion.

5. The complete known heirs must be identified and distribution determined under applicable Muslim law. The specimen does not assume equal shares or reproduce fractions absent from the source operative order. Actual family status and later deaths require the appropriate directions.

6. The appellant requests a corrected two-house inventory, determination of the gift on genuine evidence, distribution among the lawful heirs and reimbursement of verified estate rates. The source appeal succeeded on those terms, with each party bearing own costs; later implementation is not established here.

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

Identify pleaded issues, admitted evidence and genuine record pages. Follow directions on length, authorities, filing and service. Submissions do not introduce exhibits or cure missing substantive prayers. Distinguish what a party sought from what the Court ordered, and an unsuccessful historical position from the actual holding.

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.