Originating Summons to Determine and Terminate an Admitted Family Trust

Educational sample 456 | Nyeri

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 ENVIRONMENT AND LAND COURT AT NYERI

ENVIRONMENT AND LAND CASE NO [reference]

[CLAIMANT] v [RESPONDENT]

ORIGINATING SUMMONS

1. The Applicants seek determination of the admitted trust over [parcel A] and [parcel B], registered in the Respondent name. The certified registers, registration instruments and evidence of the family arrangement are [identified]; the Applicants claim as [brother beneficiary] and [widow beneficiary].

2. The questions are whether the Respondent holds the parcels for himself and the identified Applicants, what each proved beneficial share is, and whether the trust should now be terminated through subdivision and registration.

3. The Applicants rely on the Respondent admission of the trust at [actual pleading or document]. The dispute is the identity and mode of registration of beneficiaries, including the proposed substitution of the brother children and exclusion of the widow.

4. The Applicants ask whether any proved trust term or lawful basis permits that substitution or exclusion. Allegations of remarriage must be tested against admissible evidence and the governing interest; no family rumour is pleaded as an established fact.

5. If the proved arrangement supports equal shares, the Applicants seek determination of one-third for each of the three identified interests, termination of the trust and execution of lawful subdivision and transfer documents. Any encumbrance, restriction and survey requirement is [disclosed].

6. The Applicants seek costs and practical implementation directions, including any authorised execution on default. The summons does not seek adverse possession or administration of an entire estate. All necessary persons must receive the actual process and supporting affidavit.

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 appropriate Order 37 trust-determination process, actual instrument or admitted arrangement, certified registers, supporting affidavit, all necessary persons and proper service. This is substantive educational wording, not the complete filing pack. A trust summons is distinct from adverse possession. Use the trust limb of Order 37 with the actual instrument and admitted arrangement, supporting affidavit and certified registers. Order 37 rule 7 adverse-possession instructions do not apply.

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

Two parcels previously belonging to the family mother were registered to a son who admitted holding for himself, his brother and another brother family. He resisted transfer to the surviving brother and widow, preferring registration to the brother children and alleging the widow remarried. The widow and brother sought determination by originating summons. The trustee did not testify.

The Court determined the trust and ordered the two parcels divided into three equal shares for the registered trustee, the brother and the widow, with costs against the trustee. Alleged remarriage was not proved and did not justify the exclusion on this record.

The admitted trust and its actual beneficiaries controlled this result. Equal thirds are case-specific, not a universal inheritance formula. Trust determination under the relevant Order 37 procedure is distinct from adverse possession and a general succession grant application.

[2025] KEELC 552 (KLR) - 14 February 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelc/2025/552/eng@2025-02-14

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/ndiritu-another-v-ndiritu-2025-keelc-552-klr

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.