



In re Estate of Anne Wambui Kiarie (Deceased) (Succession Cause E407 of 2024) [2024] KEHC 9261 (KLR) (Family) (26 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9261 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY**

SUCCESSION CAUSE E407 OF 2024

H NAMISI, J

JULY 26, 2024

**IN THE MATTER OF THE ESTATE OF ANNE WAMBUI KIARIE (DECEASED)
IN THE MATTER OF AN APPLICATION FOR LETTERS OF ADMINISTRATION
AD COLLIGENDA BONA UNDER SECTION 67 OF THE LAW OF SUCCESSION
ACT AND RULE 36 OF THE PROBATE & ADMINISTRATION RULES**

IN THE MATTER OF

SHEM MWANGI GICHEHA 1ST PETITIONER

MAUREEN WANJIRU GICHEHA 2ND PETITIONER

RULING

1. Before the Court is an Application for Letters of Administration ad colligenda bona dated June 7, 2024 filed by the Applicants, who are children of the Deceased. The Applicants seek orders to allow them to withdraw the sum of Kshs 1,950,000/- from the Deceased's bank account number 01109xxxxxxxx held at Co-operative Bank of Kenya Ltd. The money is to be utilised to offset the fees balance for the 1st Petitioner/Applicant who is enrolled at West Rift Aviation, pursuing a course in aviation.
2. I have considered the application and the oral arguments by Counsel for the Applicants who reiterated that the money was to be used for the 1st Applicant's school fees.
3. Section 67 (1) of the *Law of Succession Act* provides as follows:

No grant of representation, other than a limited grant for collection and preservation of assets, shall be made until there has been published notice of the application for such grant, inviting objections thereto to be made known to the court within a specified period of not less than thirty days from the date of publication, and the period so specified has expired.



4. Rule 36 (1) of the *Probate & Administration Rules* provides as follows:

Where, owing to special circumstances the urgency of the matter is so great that it would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of a grant of administration ad colligenda bona defuncti of the estate of the deceased.

5. The Applicants herein seek Grant of Letters ad colligenda bona in order to be able to access the funds from the Deceased's bank account. There is no doubt that the issue as highlighted by the Applicants is one that requires urgent attention since the same relates to education. This, indeed, is a matter that may necessitate the filing of an application as the one presently before the Court. Subsequently, the Applicants provided a copy of the College Invoice and banking details.

6. I note that prior to this Application, the Applicants had filed the Petition for Letters of Administration Intestate, in which they provided a list of the assets of the Deceased. Additionally, a list of beneficiaries of the estate is provided. There are 3 beneficiaries to the estate, two of whom are the Applicants herein. The third beneficiary, the father to the Applicants and husband to the Deceased, has provided his consent to the Petition to the Letters of Administration Intestate.

7. In view of the foregoing, I grant a limited grant allowing the Applicants to withdraw the sum of Kshs 1,950,000/- only from the Deceased's Bank account number 01109xxxxxx300 held at Co-operative Bank of Kenya Ltd and payment of the same to West Rift Aviation Limited. No further or other sums of money may be withdrawn from the said account until a full grant of representation is duly confirmed or further orders of this Court are made to a duly appointed administrator of the estate of the Deceased.

8. The Manager of Co-operative Bank of Kenya Ltd shall be served with this order for compliance.

DATED AND DELIVERED AT NAIROBI THIS 26 DAY OF JULY 2024

HELENE R. NAMISI

JUDGE

Delivered on virtual platform in the presence of:

...Gatunefor the Applicants

