



In re Estate of Joseph Kariuki Mwangi (Deceased) (Probate & Administration E870 of 2024) [2024] KEHC 14867 (KLR) (Family) (28 November 2024) (Ruling)

Neutral citation: [2024] KEHC 14867 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
PROBATE & ADMINISTRATION E870 OF 2024
H NAMISI, J
NOVEMBER 28, 2024
IN THE MATTER OF THE ESTATE OF JOSEPH KARIUKI MWANGI (DECEASED)**

IN THE MATTER OF

**CATHERINE WANGARI KARIUKI 1ST PETITIONER
CHARLES MWANGI KARIUKI 2ND PETITIONER
DAISY AGNES WAMBUI KARIUKI 3RD PETITIONER
KEVIN GATHAGE KARIUKI 4TH PETITIONER**

RULING

1. The Deceased herein, who was an Advocate, passed away on 17 January 2024 in Nyahururu. He died intestate. The Petitioners have presented a Petition for Letters of Administration ad colligenda bona under section 67 of the *Law of Succession Act*.
The same is presented in their capacity as the widow and surviving children of the Deceased.
2. The Petition is supported by an Affidavit sworn jointly by the Petitioners. The Petitioners aver that prior to his demise, the Deceased operated a law firm in the name and style of KARIUKI MWANGI & CO ADVOCATES, situated in Nyahururu, which operated bank accounts at Sidian Bank, Kenya Commercial Bank and Equity Bank. The Deceased was a sole proprietor. The Petitioners have also indicated other Bank accounts belonging to the Deceased held at ABSA Bank, Cooperative Bank Ltd and Faulu Bank.
3. The Petitioners aver that due to financial constraints, they are presently unable to meet the obligations of the law firm, including pending court costs, salaries, utilities, rent and other debts incurred by the firm. At the hearing of the Application, the 1st Petitioner, widow to the Deceased, stated that the



- Deceased's firm continues to collect rental income on behalf of clients, which need to be remitted to the respective landlords.
4. Counsel informed the Court that the law firm is currently being operated by the 3rd Petitioner, who is also an Advocate of the High Court. However, since the firm was a sole proprietorship, the 3rd Petitioner is not able to access the funds in the firm's accounts.
 5. In the premise, the Petitioners pray to access the Deceased's bank accounts with a view to settling the outstanding debts, pay off the amounts owed to clients and for their monthly upkeep.
 6. The Petitioners have attached documents in support of their Petition, including letter dated 22 March 2024 from the Chief, Nyahururu, Certificate of Death, Certificate of Business Registration and Consent signed by Dennis Kamau Kariuki, a named Beneficiary. The Affidavit in support lists a vast estate comprising of over 500 assets.
 7. Sections 54 and 67 (1) of the *Law of Succession Act*, Cap 160 of the Laws of Kenya and Rule 36 of the Probate and Administration Rules provide the circumstances under which a Special Limited Grant may be issued by the Court.
 - (54) A court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act.
 - (67) (1) 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 of such grant, inviting objections thereto to me 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.
 - (36) (1) 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.
 8. In Re Estate Of SMM (Deceased [2021] eKLR, the Court set out the circumstances under which a Special Limited Grant may be issued as follows:-

“Such Letters of Administration shall authorize the Applicant to do the following acts:

 1. Carry out an Inspection and Audit of the firm to ascertain how many files/ clients with matters pending are on the firm's books;
 2. Contact those clients and inform them that he will manage and run the firm until such time that it is appropriate to wind it up;
 3. Access the Bank Accounts of the firm limited to Client Accounts and Office accounts as set out in the Application;
 4. Pay salaries to existing employees of the firm that is those that were employed before the Deceased passed away;
 5. Pay outstanding utility bill and overheads including rent and service charges.
 6. Wind up the firm within a reasonable period.7.....”



9. I have considered the Application and attachments. In order to preserve the assets of the estate, the access granted to the Applicants shall be limited to the named bank accounts, that is:
- i. Sidian Bank, Nyahururu Branch, Account number 0102....637 and Account number 0102....1161;
 - ii. ABSA Bank Ltd, Nyahururu Branch, Account number 027....924;
 - iii. Cooperative Bank Ltd, Nyahururu Branch, Account number 011....000
 - iv. KCB Bank Ltd, Nyahururu Branch, Account Number 110.....642;
 - v. Equity Bank Ltd, Nyahururu Branch, Account Number 0160....691, Account Number 016.....899 and Account Number 0160.....432;
 - vi. Faulu Bank ltd, Nyahururu Branch, Account Number 100.....038
10. The said sums shall be used for purposes of paying rent, salaries, debtors and maintenance costs, without the power of distribution of the Estate. The sums shall also be considered at the time of the confirmation of the Grant. The Petitioners will be required to present full accounts. Any further dealing with the estate of the Deceased must be with the authority of the Court or upon full grant of representation.
11. Further, I note that the Deceased was resident in Nyahururu, Laikipia County. A vast majority of the estate's assets are situated in Laikipia county. For this reason, this matter is transferred to the High Court of Kenya at Nyahururu for easier administration and expeditious disposal of the matter.
12. In summary, I invoke the powers vested in this court by Rule 73 of the Probate and Administration Rules and make the following orders:-
- i. That Letters of Administration ad colligenda bona are hereby issued to the Petitioners only for purposes of accessing the funds in the following bank accounts:
SUBPARA a.
Sidian Bank, Nyahururu Branch, Account number 0102....637 and Account number 0102.....1161;
SUBPARA b.
ABSA Bank Ltd, Nyahururu Branch, Account number 027....924;
SUBPARA c.
Cooperative Bank Ltd, Nyahururu Branch, Account number 011....000
SUBPARA d.
KCB Bank Ltd, Nyahururu Branch, Account Number 110....642;
SUBPARA e.
Equity Bank Ltd, Nyahururu Branch, Account Number 0160....691, Account Number 016....*899 and Account Number 0160....432;
SUBPARA f.
Faulu Bank ltd, Nyahururu Branch, Account Number 100....038



- ii. That the sums therein shall be used for purposes of paying rent, salaries, debtors and maintenance costs, without the power of distribution of the Estate;
- iii. That this matter is hereby transferred to the High Court of Kenya at Nyahururu;
- iv. This being a family matter I make no orders on costs.

DATED AND DELIVERED AT NAIROBI THIS 28 DAY OF NOV 2024

HELENE R. NAMISI

JUDGE

Delivered on virtual platform in the presence of:

.Mr. Michael Muchemi.....for the Petitioners

