



**In re Estate of Rojibhani Gordhanbhai Vaghji Patel alias Raojibhai Gordhanbhai
Vaghibhai Patel alias Raojihbhai G Patel (Deceased) (Succession Cause
45 of 2022) [2022] KEHC 14404 (KLR) (30 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 14404 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
SUCCESSION CAUSE 45 OF 2022
JN ONYIEGO, J
SEPTEMBER 30, 2022
IN THE MATTER OF THE ESTATE OF ROJIBHANI GORDHANBHA
VAGHJI PATEL ALIAS RAOJIBHAI GORDHANBHA VAGHIBHAI PATEL
ALIAS RAOJIBHAI G PTEL (DECESED)**

RULING

1. The deceased herein died testate on November 21, 2021 while domiciled in London UK. He was survived by a widow one Urmilaben Raojibhai Patel and two daughters namely; Ms Harshna Patel and Ms Preena Patel .
2. Prior to his death, the deceased had executed a written will dated September 20, 1974. In the said will he appointed his wife as the sole executrix and beneficiary of his estate.
3. Consequently, the executrix applied for a grant of probate of written will on May 31, 2022. Subsequently, a grant of probate of written will was issued on September 20, 2022 and confirmation fixed for February 19, 2023.
4. However, the petitioner filed a chamber summons application under certificate of urgency dated September 23, 2022 pursuant to section 71 (3) of the Law of Succession Act seeking confirmation of the grant the expiry of six months notwithstanding .
5. The application is anchored on grounds stated on the face of it and an affidavit in support sworn by the petitioner /applicant.
6. Basically, the applicant's application is based on the ground that she is the sole executrix and beneficiary. That there is no objection from anybody nor dependant and that the dependants have consented and confirmed that she is elderly and sick hence headed for UK for treatment.
7. I have considered the application herein, the affidavit in support and oral submission by counsel for the applicant.



8. The application before me is anchored under section 71 (3) of the *Law of Succession Act* which gives this court discretion to confirm a grant before the expiry of six months subject to fulfilment of certain conditions inter alia; that there is no dependant as defined by section 29 of the Act; that the only dependants are of full age and consented to the application and, that it would be expedient in all circumstances of the case so to direct.
9. In the circumstances of this case, there is no objection from any dependant. The executrix is elderly and due to proceed for treatment abroad. Since there is no objection in place and the only other dependants are the children who are in agreement, it is expedient that the application be allowed.
10. Accordingly, the grant is hereby confirmed and the estate be distributed in accordance with the written will dated November 20, 1974.

Dated signed and delivered at Mombasa this 30th day of September, 2022

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J. N. ONYIEGO

JUDGE

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