



REPUBLIC OF KENYA



**In re Estate of JIM (Deceased) (Succession Cause E037 of 2022)  
[2022] KEHC 13104 (KLR) (21 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13104 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
SUCCESSION CAUSE E037 OF 2022**

**MW MUIGAI, J**

**SEPTEMBER 21, 2022**

**IN THE ESTATE OF JOHN IAN MAINGEY (DECEASED)**

**LKM ..... 1ST APPLICANT/ADMINISTRATOR**

**PM .....2ND APPLICANT/ADMINISTRATOR**

**FKM .....3RD APPLICANT/ADMINISTRATOR**

**RULING**

1. The Applicants filed certificate of urgency on July 19, 2022 and vide Notice of Motion sought issuance of Grant of Letters of Administration Ad Litem for purposes of selling L.R xxxx to pay medical expenses quoted by Mlolongo Community Hospital vide letter dated May 9, 2022 for 3<sup>rd</sup> Applicant/Administrator over FKM's critical ill health.
2. This Court found vide orders of July 19, 2022 that medical expenses were to be confirmed by Karen Hospital before settlement.
3. By certificate of urgency filed on August 26, 2022, the Applicants sought Grant of Letters of Administration Ad Litem to enable prosecution of and/or defence of Court proceedings for sale proceeds of LR No. xxxx. The applicant stated that:-
  - (i) That the beneficiaries of the estate of the deceased have never been compensated on behalf of the deceased estate since the demise of the deceased and there is no way they can represent the estate of the deceased at the moment without obtaining the letter of Administration Ad Litem as prayed in the petition herein.
  - (ii) That one of the beneficiaries in the capacity of widow, FKM is very ill and it is the wish of the entire family that this Grant be given to the Petitioner as one of the options through which some funds for settling medical bills can be pursued from suit No. 1267 of 2008 in relation to the deceased's Estate.
4. In Petition for letters of Administration (Ad Litem) filed on it shows that:-



- (1) Before the demise, the deceased, had filed, as an Applicant under succession cause No.1267 of 2008, from which before determination the Court was informed by Onesmus Githinji – Advocate that he was paid a sum of money equivalent to the purchase price of two (2) acres as JIM’s entitlement, from the proceeds of sale of the property LR No.xxxx belonging to Lucy Akuku Maingey (deceased).

The issues raised in this case to pursue compensation was one between an advocate, client and the parties were advised by the Court to lodge it before the appropriate forum which would only be properly raised upon a Trial Court to which they intend to file a suit. A copy of the Ruling in in Re Estate of LAM [2018] eKLR.

5. The Affidavit in support of petition – the Applicants state that;
  - (i) That the deceased died on the January 5, 2022 at Nairobi Women’s Hospital as it appears from the attached photocopy of the certificate of death. Annexed hereto and marked “FKM1” – copy of the death certificate of the deceased.
  - (ii) That the deceased died intestate and left the following persons surviving him:
    - (a) FKM – widow – ID. xxxx
    - (b) PM – son - ID xxxx
    - (c) LKM – daughter – ID xxxx
  - (iii) That before the demise, the deceased was an Applicant in the High Court Case Succession Cause No. 1267 of 2008, under which he had filed an application on September 23, 2016 as dated in the matter of the Estate of LAM (deceased) to pursue compensation from Onesmus Githinji Advocate, who was paid a sum of money equivalent to the purchase price of two (2) Acres as John Ian Maingey’s entitlement, from the proceeds of sale of the Property L.R. xxxx belonging to Lucy Akuku Maingey (deceased). The issues raised in this case to pursue compensation was one between an Advocate, Client and the parties were advised by Court to lodge it before the appropriate forum which would only be properly raised upon a Trial Court to which we intend to file a suit. Annexed – FKM2 is a Ruling copy dated 25<sup>th</sup> July, 2018 in respect of the said case Succession Cause No.1267 of 2008 In the Estate of LAM (deceased).
6. Annexed documents are as follows;-Death Certificate Official Search Certificate Will of LAM ID Cards of Applicants
7. This Court notes that the Applicants have gazetted the Petition vide Kenya Gazette of August 26, 2022 (copy is annexed), 30 days shall expire on 26/09/2022. In the absence of an objection and the consents of the Beneficiaries/Administrators in the Petition by virtue of Section 51, 67 of the Law of Succession Act, the Grant of letters of Administration shall be granted to the Applicants/ Administrators/Beneficiaries to administer the estate of the deceased in accordance with Section 82 & 83 of the Law of Succession Act after September 26, 2022.
8. The application for grant of Letters of Administration Ad Litem is now superseded by orders of this Court to Grant of Letters of Administration to the Applicants to administer the estate of the deceased and pursue the litigation and may pursue confirmation of Grant after six (6) months.

It is so ordered.

**DATED, DELIVERED & SIGNED AT MACHAKOS THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2022 (VIRTUAL CONFERENCE).**



**M. W. MUIGAI**

**JUDGE**

**IN THE PRESENCE OF:**

**MR. IVUMBA - FOR THE APPLICANTS**

**GEOFFREY/KAUME - COURT ASSISTANT**

