



REPUBLIC OF KENYA



**In re Estate of Viyay Kumar Talwar (Deceased) (Succession Cause E55 of 2021) [2021] KEHC 9791 (KLR) (22 October 2021) (Ruling)**

Neutral citation: [2021] KEHC 9791 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
SUCCESSION CAUSE E55 OF 2021**

**JN ONYIEGO, J  
OCTOBER 22, 2021**

**IN THE MATTER OF THE ESTATE OF VIYAY KUMAR TALWAR (DECEASED)**

**RULING**

1. The deceased herein died testate on 20<sup>th</sup> March 2021 while domiciled in Mvita – Mombasa. Prior to his death, he had executed a Will dated 14<sup>th</sup> September 2020 appointing Satish Mohan Talwar as the sole executor. On 26<sup>th</sup> May 2021, the executor petitioned for a grant of probate.
2. Subsequently, on 31<sup>st</sup> August 2021, the executor petitioned for a special limited grant seeking court's leave to access the deceased's bank account No. 020xxxxxxx held at Diamond Trust Bank Mombasa and 020xxxxxxx held in the same bank to withdraw Kshs 472,216 and Kshs.1,470,680 respectively.
3. The application is supported by an affidavit sworn on 30<sup>th</sup> August 2021 by the applicant stating that the deceased had no wife nor children at the time of his death. That during his lifetime, he had employed two workers who used to help him manage his house affairs and run general errands.
4. He averred that, after the death of the deceased who was his brother, he inherited the same employees who are helping him manage the affairs of the vast estate of the deceased. That the deceased had also employed three farm workers who were taking care of the Mtwapa farm. That he needs funds to pay the five employees and also meet other utility bills in managing the home. He claimed to have incurred a total sum of kshs 472,216 in paying the said workers. That he needs kshs1,470,480 to meet the projected expenditure for the next 12 months.
5. As proof of the existence of the said employees and utilities, he attached copies of payment vouchers and cheques plus employees' weekly payment acknowledgements.
6. I have considered the application herein and the affidavit in support. According to the Will, it is clear that the applicant is the sole executor and beneficiary of the estate of the deceased.



7. Under Section 54 of the *Law of Succession Act*, the court is empowered to grant a limited grant for a specific purpose. It provides thus:

“A court may according to the circumstances of each case, limit a grant of representation when it has jurisdiction to make in any of the forms described in the fifth schedule”.
8. It is trite law that this court has powers to issue a limited grant for a specific purpose. The objective is to take care of certain urgent situations that cannot await issuance of a full grant.
9. From the evidence submitted, it is clear that the estate has a number of casual workers who needs their daily, weekly or monthly wages. To sustain the estate’s operations and management, the employees must be taken care of. Under Section 54 of the *Law of Succession Act*, Paragraph 11 of the 5<sup>th</sup> Schedule read in conjunction with Section 47 of the *Law of Succession Act* and Rule 73 of the *Probate and Administration rules*, this court has inherent powers to issue the orders sought in the interest of justice.
10. Having held that the court has the powers to grant a specific grant, I am satisfied that the application is merited and a special limited grant of letters of administration shall issue to the executor to access Diamond Trust Bank (K) Ltd. Moi Avenue Branch Mombasa Account No. 020xxxxxxx to withdraw Kshs1,470,480 for purposes of paying wages to the employees and general operations and management of the estate.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MOMBASA THIS 22<sup>ND</sup> DAY OF OCTOBER, 2021.**

**J.N. ONYIEGO**  
**JUDGE**

