

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

SUCCESSION CAUSE NO. 9 OF 2016

IN THE MATTER OF THE ESTATE OF MOHAMED MAALIM MUHUMED (DECEASED).

RULING

1. Before me is an application brought by way of Summons dated 27th June, 2017 for confirmation of the grant of letters of administration issued to the Public Trustee on 22nd June, 2017 in the estate of the late Mohamed Maalim Muhumed who died on 18th May, 2013.
2. The application is not opposed, and nobody has made a claim against the assets of the estate. The application for confirmation of letters of administration was however filed on 29th June, 2017 just about seven (7) days after the initial grant of representation of letters of administration was issued on 22nd June, 2017 before the lapse of six months from the date of issuance of the initial grant of representation, as required under Section 71 (1) of the Law of Succession Act (Cap. 160). In my view, if the Public Trustee wants to obtain a confirmed grant of letters of administration before the statutory period of 6 months, he should invoke the provisions of Section 71 (3) or (4) as may be appropriate in each specific case.
3. That said, the application herein was heard on 6th December, 2017 almost six months from its filing. I heard the Assistant Public Trustee make submissions before this court.
4. On the hearing date of the application for confirmation of grant, Osman Ali a brother of the deceased was present in court. He had also appeared in court on 22nd June, 2017 for the hearing of the application for the initial grant of letters of administration. Explanations on why the widow and mother of the deceased were not able to attend court were given by the Assistant Public Trustee in his presence. They were poor people from Wajir County. Distribution of the assets of the estate comprising of cash only had also been determined by the Kadhi's court under Islamic Law of Succession and Inheritance, and there has been no complaint lodged on that decision.
5. I thus allow the application and order that the letters of administration in estate herein issued to the Public Trustee be and are hereby confirmed. Distribution of the assets will be as has already been determined by the Kadhi's court at Wajir. Certificate of confirmed grant to issue.

Dated and delivered at Garissa on 30th January, 2018

George Dulu

JUDGE