



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 2423 OF 2010**

**IN THE MATTER OF THE ESTATE OF ELIUD NJOROGI KURIA (DECEASED)**

**RULING**

1. The summons dated 3<sup>rd</sup> February 2017 seeks several orders, relating to amendment of the certificate of confirmation of grant dated 17<sup>th</sup> November 2016, possession of postal keys, custody of title deeds, payment of rent and deposit thereof and of other income into a particular bank account, rendering of accounts, payment of a certain amount of money to the applicant, and occupation of estate premises.
2. The grant herein was partially confirmed on 15<sup>th</sup> November 2016, essentially to facilitate access by beneficiaries to certain assets, being funds and share investments in various firms. There is ongoing an oral hearing to dispose of the rest of the assets.
3. I have considered the application, the affidavits in support and in reply, as well as the submissions filed by the parties. Most of the issues raised ideally should be the subject of the ongoing oral hearing, such as those relating to possession of postal keys, custody of title documents, payment of rents and deposit of rent or other income received into a bank account, rendering of accounts, payment of certain moneys to the applicant, and occupation of estate accounts. To enable the court make a comprehensive determination on all the critical issues, the parties ought to tender oral evidence on these matters and expose themselves to cross-examination thereon.
4. I am though persuaded that there is a case for amendment of the certificate of confirmation of grant to facilitate implementation thereof.
5. The other issue that I wish to advert to concerns the postal keys. Strictly, those keys do not form part of the estate of the deceased. They belong to the postal authority which owns the postal box. The key-holder merely rents the box from the postal authority, and it is for this reason that the authority can recall it at any time in the event of breach of the terms of the rental. The probate court should have no business whatsoever with who should have custody of the said keys.
6. In the end I shall allow the application dated 3<sup>rd</sup> February 2017 in terms of prayer 1 thereof. The application is dismissed in respect of the rest of the prayers; the parties ought to address the issues raised therein in the ongoing oral hearing for confirmation of the grant with respect to the assets not so far distributed. Costs shall be in the cause.

**DATED, SIGNED and DELIVERED at NAIROBI this 29<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

**W. MUSYOKA**

**JUDGE**