



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**SUCCESSION CAUSE NO.3201 OF 2014**

**IN THE MATTER OF THE ESTATE OF JOSEPH KARIMI KARUHI (DECEASED)**

JOHN MWANGI .....1<sup>ST</sup> APPLICANT/PETITIONER

JANE GATHONI KARIMI ..... 2<sup>ND</sup> APPLICANT/PETITIONER

**RULING**

1. The applicants are the children of Joseph Karimi Karuhi (deceased) who died intestate on 4th July 2014. On 2nd October 2014 they applied to this court for grant of letters administration *ad colligenda bona*, limited only for the purposes of accessing and withdrawing funds from the bank accounts of the deceased and accessing shares in the CDS account No.527700 and doing such acts as may be necessary for the preservation of the same and until further representation be granted. Their application was premised on grounds that some of their siblings and beneficiaries of the estate of the deceased reside in the United States and thus were not able to give their consent to apply for the full grant; and that the limited grant *ad colligenda bona* was urgently required to enable them access funds in the listed bank accounts of the deceased for purposes of payment of college fees for some of the beneficiaries who study locally and in the United States of America. All the beneficiaries duly gave their consent for the issuance of limited grant.
2. The court earlier on directed that the petitioners should petition for a full grant which necessitated the current application dated 22nd May 2015 brought under certificate of urgency. The applicants contend that they are unable to apply for a full grant at this stage as two of the beneficiaries are currently in the United States pursuing their further education. They thus asked the court to allow their petition for limited grant *ad colligenda bona*.
3. **Section 54** of the **Law of Succession Act** provides for limited grants. It states that;

**“A court may, according to the circumstances of each case, limit a grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule.”**

**Rule 36** of the **Probate and Administration Rules** deals with grant *ad colligenda bona*. It states that;-

**“Where, owing to special circumstances the urgency of the matter is so great that it**

would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of a grant of administration *ad colligenda bona defunct* of the estate of the deceased."

4. The applicants herein have explained that the special circumstances for not petitioning for a full grant was that two of the beneficiaries are currently in America pursuing their further education. I am not satisfied that this is as a special circumstance that warrants the issuance of limited grant *ad colligenda bona*. In any case, I note that the said two beneficiaries Rose Wamuyu Karimi and Lucy Njeri Karimi duly gave their consents for the application for the grant *ad colligenda bona*. Both consents are dated 29th July 2014. If the applicants herein were able to obtain the consents of the said beneficiaries for this limited grant, why is it not possible to obtain their consents for full grant? With the existence of technology, it is very possible for the said consents to be given wherever they are and filed accordingly in this Cause.
5. Moreover, grant *ad colligenda bona* is restricted to the purpose of collecting and preserving an estate, unless the form is modified to suit other purposes specified in the grant as issued. **(RE SUCCESSION-LIMITED GRANT (2000) 2EA 495, and MORJARIA-V- ABDALLA (1984) KLR 490)**. I am hesitant to allow access to withdraw funds in the various bank accounts in the name of the deceased as the applicants herein did not indicate how much money was needed for college fees, upkeep of the beneficiaries as well as how much was needed to manage the said estate. It is also true that the court has not been told how much the estate of the deceased is worth, and allowing access to the accounts without assessing the specific sums of money needed therein could result in depletion of funds constituting the estate of the deceased prior to issuance of full grant and confirmation of the same.
6. In short, no new material evidence has been given to cause the court to review the earlier orders that it had given. I dismiss the application and ask the applicants to petition for a full grant.

**DATED and DELIVERED at NAIROBI this 11<sup>th</sup> December 2015.**

**A.O. MUCHELULE**

**JUDGE**