



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT ELDORET**

**PROBATE & ADMINISTRATION CAUSE NO. 253 OF 2003**

**IN THE MATTER OF THE ESTATE OF EDWARD SYALO LUTILO- (DECEASED)**

**RULING**

The application before this court is dated the 7<sup>th</sup> June, 2011 and is supported by the affidavit of Robai Syalo Lutilo dated the 8<sup>th</sup> July, 2011 and a further affidavit dated on 22<sup>nd</sup> July, 2011.

The application is brought under section 83(c) Law of Succession Act Cap 160 and Rule 49 of the Probate and Administration Rules.

The applicant has a son KEVIN KIVEU LUTILO who has been admitted to Mt. Kenya University and requires the sum of Kshs. 100,000/- from the Estate funds held at Standard Chartered Bank A/C NO. 10501 – 36206501. There are annexures RSL 1 and RSL 2 in support of the application.

The application was opposed by Counsel for the 2<sup>nd</sup> Administrator on the grounds that the said Administrator also has a son who has been deferred by Egerton University and states the deferment was due to lack of monies to pay for the university fees. She also prays for an unspecified amount to pay school fees for her son JOSEPH LUTILO.

I find that the 1<sup>st</sup> Administrator's application has merit and is supported by a letter of admission from Mt. Kenya University and the letter indicates the fees payable (TRSL 1). The application is also supported by the consent letter dated 23<sup>rd</sup> April, 2007 (RSL 2). At paragraph 4(vi) of the said consent letter the both Administrators have consented to the accessing of the account by the 1<sup>st</sup> Administrator to pay school fees for KEVIN KIVEU LUTILO.

I therefore grant the application and confirm that the sum of Kshs. 100,000/- be released from A/C NO.10501 – 36206501 at Standard Chartered Bank Kitale for purposes of paying fees at Mt. Kenya University for KEVIN KIVEU LUTILO.

The 2<sup>nd</sup> Administrator's request is not supported by any application, nor prayers, nor tangible annexures. The annexure "JN 1" is a letter for "Deferment of studies". The letter does not stipulate that the deferment is due to lack of school fees as submitted by counsel. The deferment could have been "voluntary".

The 2<sup>nd</sup> Administrators application is disallowed for lack of a formal application supported by prayers. The 2<sup>nd</sup> Administrator is at liberty to make and file a formal application with supporting documents.

The costs shall be in the cause.

**DATED AND DELIVERED AT ELDORET**

**THIS 30<sup>th</sup> DAY OF January 2012**

**A. MSHILA**  
**JUDGE**

