

Moses Cheruiyot Chepkwony no ages disclosed
Kipkurui Chepkwony no ages disclosed
who need school fees.

4. Further, they need urgent funds in order to cover the said needs being A/C NO. 0110054648700 Cooperative Bank Kericho.

5. The needs required being:-

a) Running the Deceased's estate pending confirmation	Kshs. 450,000/=
b) School fees	Kshs. 150,000/=
c) Debt to Linus Kipkorir Tonui	Kshs. 140,000/=
ID 0279652	-----
Total	Kshs. 740,000/=
	=====

6. This Court requested for a further affidavit from the bank to ascertain how much was exactly in the said account as the same had not been disclosed? The bank disclosed that a total of Kshs. 942,136/95 was in the account.

II: Findings

7. The following facts have been noted by this court:-

a) Grant of letters intestate.

8. From this cause there has never been any grant of letters of administration issued to anyone nor the petitioner. The date of 9th November, 2007 alleged that the grant was issued is at variance with the date of 14th November, 2007 when the Kenya Gazette was issued without any orders from the judge to effect such orders.

9. No judge has made orders for grant in this matter.

a. There is therefore no letters of grant that have been issued. Therefore one Joseph Kipkorir Mitei has no authority nor locus standi herein.

b. Even if per chance he had authority or the letters of grant lawfully, the following facts are again at variance with his prayers.

B) Deceased

12. The deceased died at the age of 103 years old. He had two houses. His first wife is deceased. He is survived with six children from the 1st house and 3 children for the 2nd house and a widow No. 2.

C) Survivor

13. Two of the survivors are of the same age. All the survivors nonetheless are aged 53 to 70 years old. This clearly shows that there are no minors in this cause.

D) Debtor

14. The P&A 5 form does not show any where that the deceased had liabilities. To say so now means this debt is inconsistent to the facts given on form P&A 5.

E) Needs of the Estate

15. The needs of running the estate have not been particularized. Namely, apart from the statement there are needs there are no breakdown as to how this came about i.e. Kshs. 450,000/=.

I accordingly find that there is no basis to this application. It is accordingly dismissed.

DATED this 28th day of May, 2009 at KERICHO

M.A. ANG'AWA

JUDGE

Advocate

J.M. Motanya advocate instructed by the firm of M/S J.M. Motanya &
Co. Advocates for the Petitioner/applicant - present