



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO
SUCCESSION CAUSE 113 OF 2008

IN THE MATTER OF THE ESTATE OF

EDWARD HENRY MWANZA DECEASED

AND

TERESIA WANJIRU MWANZA.....1ST PETITIONER

JOHN MWEMA2ND PETITIONER

RULING

Application for confirmation of Grant 13th May, 2009

I: Background

1. The deceased, a male adult aged 54 years old died of stroke on the 7th April, 2008. He was survived by his widow aged 47 years old and four children aged in 2009 as follows:

- i) Adult daughter 26 years old**
- ii) Adult daughter 24 years old**
- iii) Adult son 22 years**
- iv) Minor daughter 15 years old**

2. There being a minor child, the law recognizes that a “*resulting trust*” has been created. A minimum

of two administrators are required.

3. The widow and son took up the grant which they applied some time in the year 2008. The temporary letters of grant was issued on the 29th September, 2008 (*G.B.M. Kariuki J*).

4. Six months after the letters are issued and once the estate has been gathered with all the assets identified and the liabilities proved to be required to be paid, an application for confirmation of grant is required.

5. By an application of 13th May, 2009 the Petitioner applied for grant to be confirmed.

II: Confirmation of grant

13th May, 2009

6. Under **rule 41(2)** of the Probate and administrative rules this court adjourned 11th June, 2009 the matter to allow the administrator give the shares of the assets properties to be approved amongst the dependants. These details were duly obtained by 16th June, 2009 with the liabilities also being included.

7. The apportionment amongst the dependants of the deceased was agreed that all the assets and or properties would be vested in the widow to hold in trust of all the minors.

8. This court was shown the apportionment of moneys to be held in trust of the children and which would be utilized for their education.

9. Because there is one minor child, whose apportionment has been given as Kshs. 600,000/= this court would make orders that the sum of Kshs. 600,000/= in favour of the minor S.S.M be deposited in an interest earning account given herein as Barclays Bank Narok No. [] in the joint names of the two petitioners and the Registrar, High Court of Kenya at Kericho. That the capital sum of Kshs. 600,000/= is to be maintained in the said account till the minor attains the age of majority. The interest from the capital may be released to the two administrator, ON APPLICATION TO COURT, for purposes of the upkeep of the minor. Failure to, an appropriate bank account it be a fixed Deposit account with Barclays Bank, Narok.

10. In summary.

i) Confirmation of grant of letters of interstate be and is hereby allowed on the following terms:-

a) That all properties and assets to go to the widow Teresia Wanjiru Mwanza wife interest and to be held in trust of the children.

b) That apportionment of Kshs. 500,000/= to each adult child to be utilized as college fees.

c) That Kshs. 600,000/= for the minor to be deposited in Account No [] Barclays Bank account Narok branch (or failure to, a fixed deposit account) in an interest earning account in the name of the two administrator and the registrar of the High court of Kenya for Kericho.

d) That the funds of Kshs. 600,000/= for the minor is to remain in a fixed deposit account till the said minor attains the age of majority.

e) The two administrator are permitted to use the interest, on application to court, for the up keep of the minor.

f) The capital of Kshs. 600,000/= will not be used.

11. The costs be in the Estate

DATED this 31st day of July, 2009 at **KERICHO**

M.A. ANG'AWA

JUDGE

Advocates

J. Maritim advocate instructed by M/S J. Maritim & Co. advocates for the petitioners/applicants - present