



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KERICHO**  
**Succession Cause 183 of 2007**

**1. Family Law**

**2. The Law of succession**

**3. Application for confirmation of grant (28.7.08)**

- a. deceased, male adult aged 44 years old on 29.4.07
- b. Cause of death pneumonia
- c. form P&A 30 – Principal Registry 7<sup>th</sup> November, 2007
- d. Kenya Gazette 19<sup>th</sup> June, 2007.
- e. Letters of grant 8.11.07 (KimaruJ)
- f. Survivors

widow aged 36 years old

five children :- 3 minor daughters aged

16, 13 and 3 years old

two minor sons aged 8 and 3 years old

**4. Under rule 41(3) P&A rules court directs breakdown of assets required.**

- a) Only assets is Barclays Bank account having funds

**5. Two administrators provided being widow and brother to deceased.**

**6. Held**

Application for confirmation of grant allowed with apportionment as per courts orders and children shares

**7. Case Law - Nil**

## 8. Advocate

M/S J.M. Motanya & Co. advocate for the Petitioner - present

STANLEY KIPKEMOI CHEPKWONY .....DECEASED

AND

WINNY CHEMUTAI CHEPKWONY ..... 1<sup>ST</sup> PETITIONER

GEOFFREY KIPCHIRCHIR BIEGON ..... 2<sup>ND</sup> PETITIONER

### RULING

#### Confirmation of letters of grant intestate dated 28th July, 2009

##### **I: Background**

1. Stanley Kipkemoi Chepkwony (*deceased*) passed away on the 29<sup>th</sup> April, 2007 having died at the age of 44 years old. The cause of death was pneumonia due to respiratory failure due to Aids Kaposi Sanome.
2. He left behind a widow aged 36 years old and five minor children. Three daughters aged 16, 13 and 3 years old and two minor sons aged 8 and 3 years old.
3. As minors are named in this estate under **Section 58** of the **Law of Succession Cap 160** a resulting trust is created. This means a minor of two administrators must apply to administer the estate.
4. The widow to the deceased together with the brother to the deceased applied for letters of grant intestate on the 16<sup>th</sup> June, 2007. Although the Kenya Gazette Notice was issued on 16<sup>th</sup> June, 2007 the very same day the grant was applied for, the Probate Law requires that an application made outside the Principal Registry must first apply for form P&A. 30 to ensure that no other similar grant has been applied for. This form was received to this court on the 8<sup>th</sup> November, 2007, dated 7<sup>th</sup> November, 2007.
5. Letters of grant of administration intestate were issued on the 8<sup>th</sup> November, 2007, Kimaru J.
6. The applicant administratrix and administrator now come to apply for confirmation of the said grant.

##### **II: Confirmation of grant**

7. The only asset the deceased had was a bank account No. 753684131 with the Barclays Bank Ltd (*Moi Avenue*) Nairobi.
8. The deceased was described as an artisan and no indication that he had benefits from formal employment with Telkom.
9. The assets in that bank was for Kshs. 1,114,616/35 as of 18<sup>th</sup> June, 2009.
10. This court was not informed the sum of Benefits with Telkom. The deceased would have indicated to his employer how this would be approved.

##### **II: Findings**

11. I hereby apportion the estate as follows:-

**11a) Benefits from Telkom (K) ltd as per the wishes of the deceased indicated to the company, failure to that all the benefits go to the deceased lawfully widow Winny Chemutui Cheykwony**

**11b) That the sum of Ksh. 1.114.616/35 held with the Barclays Bank of Kenya Moi Avenue be apportioned as follows:-**

**In 2009**

**i) B.C aged 17 years old daughter. Kshs. 200,000/=**

**ii) F.C aged 14 years old daughter. Ksh. 200,000/=**

**iii) F.K aged 9 years old son.**

**Kshs. 200,000/=**

**iv) L.K aged 6 years old, son**

**Kshs. 200,000/=**

**v) I.C aged 4 years old daughter Kshs. 200,000/=**

**11c) That the balance of Kshs. 114,616. 35 be paid to the widow Winny Chemutai Chepkwony.**

12. I make orders that the sum of Kshs. 1 million apportioned amongst the minor children be invested in an interest earning account in favour of the said minors until they have attained the age of majority. That the sum be deposited in an interest earning account with the Barclays Bank Ltd Moi Avenue in the name of the two administrator and the Registrar of the High Court of Kenya at Kericho.

13. That the interest from the principal sum may be released to the administratrix and administrator for the up keep of the minors on application.

14. That the principal sum of Kshs. 200,000/= each per child should not be touched till the children attain the age of majority.

15. I hereby award costs to be in the estate.

**DATED** this 31<sup>st</sup> day of July, 2009 at **KERICHO**

**M.A.ANG'AWA**

**JUDGE**

**Advocate**

M/S J.M. Motanya & Co. advocate for the Petitioner - present