



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (NAIROBI LAW COURTS)**

**Succession Cause 2220 of 2009**

**IN THE MATTER OF THE ESTATE OF DARSHAN SINGH BHANA SINGH – (DECEASED)**

**R U L I N G**

Before me is a petition for a special limited grant filed by M/s P.M. Wamae & Company advocates for the petitioner **NIRMAL KAUR JUTTILA**. The petition is for release of money in Barclays Bank of Kenya Limited Ruaraka Branch account No. 6300600 held in the name of the petitioner's late husband **DARSHAN SINGH BHANA SINGH**, pending the grant of full letters of administration intestate.

The petition does not state the section of the law or regulation under the Law of Succession Act (**Cap. 160**) under which it was brought. It was however, filed with an affidavit in support sworn by the petitioner on 16<sup>th</sup> October, 2009. It was deposed in the said affidavit, inter alia, that the deceased died intestate on 27<sup>th</sup> February, 2005; that since then the petitioner who resides in the United Kingdom has been depending on handouts from her children; that there was an amount of Kshs.723,492/40 to the credit of the bank account; that the (3) children who were adults had all consented to the application; that information on assets and liabilities position of the deceased at the time of death was not available.

On the hearing date the petitioner and children, except **SATVINDER** were present in court. Mr. Sitati for the Petitioner also addressed me.

Having considered the application, documents filed and submissions of counsel for the petitioner, I will not grant the prayer sought. First of all the section of the law or regulation that allows the petitioner to file the application and also grants jurisdiction to the court is not cited, for the court to know whether the orders sought may or may not be granted.

Secondly, and more importantly, letters of administration are meant to protect the interests of the beneficiaries as well as creditors. Only the nett estate is meant for distribution to the beneficiaries as may be consented to by the beneficiaries or as decided by the court. The liabilities of the estate are said to be unknown

In my view, a proper or normal application for letters of administration has to be filed in accordance with the existing law and regulations. This application appears to be premature. I find no merits on this application and have to dismiss the same.

Consequently, and for the above reasons, I dismiss the application and decline to grant the orders sought.

Dated and delivered at Nairobi this 23<sup>rd</sup> day of November, 2009.

**George Dulu**

**Judge.**

**In the presence of –**

Mr. Sitati for the applicant

David Court Clerk.