

IN THE HIGH COURT OF KENYA
AT KAKAMEGA
SUCCESSION CAUSE NO. 36 OF 2005

IN THE MATTER OF THE ESTATE OF TIMOTHY MUKWA MANGOLI
..... DECEASED
A N D
PHILIP TEMBU M. MAKHETI PETITIONER

R U L I N G

Philip Tembu M. Makheti, the Applicant, sought in his application by Summons dated 26.1.2005 a limited grant of Letters of Administration ad Colligenda under Section 67 of the Law of Succession Act, Cap 160, to enable him to be substituted in place of his father, Timothy Mukwe Mangoli, the Respondent in Kakamega CMCC No. 82 of 2003, who is said to have died.

The date of death of the deceased was not given nor was any evidence of death furnished. Under Rule 36(3) of the Probate and Administration Rules, an application under S.67 of the Succession Act is required to be made by Petition in Form 85. The said application was brought by Summons. It was fatally defective and it is therefore struck out.

Dated at Kakamega this 24th day of May, 2005.

G. B. M. KARIUKI
J U D G E