



REPUBLIC OF KENYA



In re Estate of Kanyugo Waichamama Waweru (Deceased) (Ad Litem Succession Cause E005 of 2023) [2025] KEHC 2996 (KLR) (12 March 2025) (Ruling)

Neutral citation: [2025] KEHC 2996 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
AD LITEM SUCCESSION CAUSE E005 OF 2023**

LN MUTENDE, J

MARCH 12, 2025

IN THE MATTER OF THE ESTATE OF KANYUGO WAICHAMAMA WAWERU (DECEASED)

IN THE MATTER OF

REBECCA WAMBUI KANYUGO PETITIONER

RULING

1. Rebecca Wambui Kanyugo, the Petitioner, presented to this court a petition seeking grant of letters of Administration Ad-Litem to issue for purposes of withdrawing all the money in the deceased's Barclays Bank, Account No. (withheld).
2. The petition is supported by an affidavit deposed by the Applicant who avers that the deceased, Kanyugo Waichamama Waweru died on the 17th June, 2020 at Kijabe Hospital leaving her with their children who are all adults namely;
 - i. Monicah Wanjira Kanyugo
 - ii. John Waichamama Kanyugo
 - iii. Paul Mwangi Kanyugo
 - iv. Hellen mumbi Kanyugo
 - v. David Kariuki Kanyugo
 - vi. Isaac Kamau Kanyugo
3. That she needs to utilize all the money for her upkeep.
4. I have duly considered the application. Letters of administration are issued to enable individuals to distribute the estate of the deceased. Apparently, an estate of the deceased is protected by the law. Section 45 of the *Law of Succession Act* provides that;



- (1) Except so far as expressly authorized by this Act, or by any other written law, or by a grant of representation under this Act, no person shall, for any purpose, take possession or dispose of, or otherwise intermeddle with, any free property of a deceased person.
- (2) Any person who contravenes the provisions of this section shall—
 - (a) be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding one year or to both such fine and imprisonment; and
 - (b) be answerable to the rightful executor or administrator, to the extent of the assets with which he has intermeddled after deducting any payments made in the due course of administration.
5. Originally, an action regarding the estate of the deceased would be conducted after confirmation of the grant of representation. However, there may be instances where there is need for action to be taken by the dependants to preserve the estate, and it is on such an instance that a limited grant can be issued.
6. A limited grant may be generally issued pending completion of the administration process where the deceased left property. As stated, the deceased died on 17th June, 2020. The Petitioner approached the court through a petition for letters of administration dated 11th January, 2024; seeking to withdraw all monies in the deceased's account. The estimate of the sum is not disclosed.
7. On the 25th July 2024, the petition was dismissed but later reinstated on 3rd February, 2024. It is not indicated if there is an intention to file a full grant of representation which should be done. The instant application has been pending for a whole year. The purpose of withdrawing the entire undisclosed amount is not satisfactorily stated.
8. The special circumstances for withdrawal of the money has not been established. Although, there are consents filed by those stated as the children of the deceased; this court on seeking to have them appear virtually for examination to establish the loopholes identified, counsel declined; hence, this court finds that the reason given to withdraw the entire amount, whatever the sum, being unsatisfactory.
9. In the premises, I am not satisfied as to the reasons why the grant Ad-Litem should issue. Parties are advised to apply for the full grant of representation to the estate of the deceased.
10. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 12TH DAY OF MARCH, 2025.

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L.N. MUTENDE

JUDGE

