



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Jerusha Waitherero Macharia (Deceased) (Succession Cause E706 of 2021) [2025] KEHC 4492 (KLR) (Family) (8 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4492 (KLR)

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**  
**FAMILY**  
**SUCCESSION CAUSE E706 OF 2021**  
**H NAMISI, J**  
**APRIL 8, 2025**

**IN THE MATTER OF**  
**LUCY WAIRIMU MACHARIA ..... APPLICANT**

**RULING**

1. The Deceased passed away on 26 November 2020 through a tragic road accident. She died intestate. Following her death, the Applicant applied for and was subsequently issued with a Limited Grant of Letters of Administration ad Litem on 27 May 2021 for purposes of filing suit for and on behalf of the dependants of the Deceased under the *Fatal Accident Act* and *Law Reform Act*.
2. The Applicant has filed the present application seeking the following orders:
  - i. Spent;
  - ii. That this Honorable Court be pleased to extend the validity of the Limited Grant of Letters of Administration ad litem issued herein on 27 May 2021;
  - iii. That the costs of this Application be in the cause;
3. The Application is supported by an Affidavit sworn by the Applicant. The Applicant avers that she was unable to immediately file the suit as contemplated due to financial constraints. However, when the suit was subsequently filed on 14 November 2023, the said date was beyond the statutory period as provided under Section 2(3)(b) of the *Law Reform Act*. Subsequently, the suit was withdrawn to enable the Applicant seek extension of the validity of the Limited Grant for purposes of filing a fresh suit.
4. Section 2(3)(b) of the *Law Reform Act* provides that:

No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person unless either – proceedings



are taken in respect thereof not later than 6 months after his executor or administrator took out representation.

5. I note that there has been significant delay between the issuance of the Limited Grant in May 2021 and the filing of the suit in November 2023. It is not clear when the said suit was withdrawn, therefore, I am able to tell if there was substantial delay between its withdrawal and the present application dated 30 October 2024. Be that as it may, the reason advanced by the Applicant, being financial constraints, is a legitimate reason to warrant this Court's indulgence.
6. In the circumstances, I allow the Application dated 30 October 2024. Since the Application was ex parte, I make no orders as to costs.

**DATED AND DELIVERED AT NAIROBI THIS 8 DAY OF APRIL 2025**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

Mr. Mitiambo.....for the Applicant

Libertine Achieng.....Court Assistant

