



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Edward Nganga Kabue (Deceased) (Probate & Administration
E542 of 2025) [2025] KEHC 10527 (KLR) (Family) (18 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10527 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
PROBATE & ADMINISTRATION E542 OF 2025
H NAMISI, J
JULY 18, 2025
IN THE MATTER OF THE ESTATE OF EDWARD NGANGA KABUE (DECEASED)
IN THE MATTER OF
NANCY WAIRIMU PETITIONER

RULING

1. The Deceased herein passed away on 17 January 2003 in Kiambu. He died intestate. The Petitioner has presented this Petition for Letters of Administration ad colligenda bona under section 67 of the [Law of Succession Act](#). The same is presented in her capacity as a daughter to the Deceased. It would seem that since his demise in 2003, no succession proceedings have been filed in respect of the Deceased's estate.
2. The Petition is supported by an Affidavit. The Petitioner avers that the Deceased was survived by Beatrice Wanjiku Nganga, his widow, and three daughters, namely Jane Mumbi, Pauline Wanjiru and Nancy Wairimu. Beatrice Wanjiku Nganga is critically ill and admitted at the Nairobi Hospital, with a bill that continues to accumulate. According to the Petitioner and her siblings, all of whom appeared before this Court, the hospital bill currently stands at about Kshs 5 million.
3. The Petitioner prays for Letters of Administration limited for the purpose only of collecting, getting in and receiving the estate. According to the Petitioner, the estate of the Deceased is owed sums of money as follows:
 - i. Kshs 15,325,800/= by the National Land Commission being an award for compulsory acquisition of part of the land parcel known as Limuru/Rironi/T.304/25;
 - ii. Kshs 11,668,680/= by the National Land Commission being an award for the compulsory acquisition of part of land parcel known as Limuru/Rironi/T.304/1



- iii. Rent arrears by Rubis Kenya Ltd, being outstanding rent arrears from leasing of part of the property known as Limuru/Rironi/T.304/25 from January 2003 to January 2015 at the rate of Kshs 30,000/= per month;
- 4. The Petitioner avers that both the National Land Commission and Rubis Kenya Ltd have formally acknowledged the said debts and have expressed readiness to release the funds upon presentation of a court order and/or letters of administration of the Deceased's estate. It is these funds that the Petitioner and her siblings wish to use to offset their mother's hospital bill.
- 5. To support her Application, the Petitioner has attached copies of Certificate of Death, her Certificate of Birth, letter dated 13 July 2025 from the Assistant Chief, Ruaka Sub-location, Bill dated 4 July 2025 for Kshs 3,136,844/= from the Nairobi Hospital, Bill dated 9 July 2025 for Kshs 4,100,217 from the Nairobi Hospital, demand letter from the Nairobi Hospital dated 4 July 2025, Awards dated 31 May 2019 from the National Land Commission in respect of the two parcels of land and a consent from Jane Mumbi and Pauline Wanjiru.
- 6. Sections 54 and 67 (1) of the *Law of Succession Act*, Cap 160 of the Laws of Kenya and Rule 36 of the Probate and Administration Rules provide the circumstances under which a Special Limited Grant may be issued by the Court.
 - (54) A court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act.
 - (67) No grant of representation, other than a Limited Grant for Collection and
 - (1) Preservation of Assets, shall be made until there has been published notice of the application of such grant, inviting objections thereto to me made known to the court within a specified period of not less than thirty days from the date of publication, and the period so specified has expired.
 - (36) Where, owing to special circumstances the urgency of the matter is so great
 - (1) that it would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of a grant of administration ad colligenda bona defuncti of the estate.
- 7. As a general rule where no grant has been issued by the court any person is entitled to apply for a grant may approach the court to obtain a Grant ad colligenda bona for purposes of collecting calling in and preserving the estate of Deceased pending the issuance of a Grant.
- 8. In Tristram and Coote's Probate Practice, 24 ed at page 394 it is stated:

“When the estate of a deceased person may be endangered by delay in administering it, the court is not bound to wait for an application by the person entitled to a grant under the rules, but may grant letters of administration ad colligenda bona for the purpose of preserving the property.”
- 9. It is important to note that a Grant ad colligenda bona does not confer upon the Grantee the status of a “personal representative” of the deceased person and such Grantee is not entitled to administer the estate of the Deceased. Such a Grant is only made in order to preserve the estate of a Deceased pending issuance of a full grant. However, for the grant to issue, a petitioner must demonstrate that he/she has sufficient locus standi to file the petition. In this instance, the Petitioner, through the Certificate of



Birth and letter from the Chief, has demonstrated that she was a daughter to the Deceased and is a beneficiary of the estate.

10. I have considered the Application and attachments. It is clear that there are pressing medical needs by the widow to the Deceased that must be attended to and cannot await confirmation of the full Grant. I also appreciate that the assets of the estate are not yet ascertained and that no Petition for Grant of Letters of Administration has been filed. In order to preserve the assets of the estate, I hereby order as follows:
 - i. Grant of Letter of Administration ad colligenda bona to issue to the Petitioner, Nancy Wairimu, for purposes of calling in, collecting and preserving the estate of the Deceased pending issuance of a full Grant;
 - ii. The Petitioner shall open a bank account in respect of the estate in which all monies collected on behalf of the estate shall be deposited;
 - iii. A sum of Kshs 4,000,000/= only shall be paid from the said account directly to the Nairobi Hospital in settlement of the bill in respect of Beatrice Wanjiku Nganga;
 - iv. The Petitioner shall provide statements of the account within 60 days of the date hereof;
 - v. Petition for Grant of Letters of Administration shall be filed within 60 days from the date hereof;
 - vi. Matter shall be mentioned before the Deputy Registrar on 23 September 2025.
11. Any further dealing with the estate of the Deceased must be with the authority of the Court or upon full grant of representation.
12. Costs will be borne by the estate.

DATED AND DELIVERED AT NAIROBI THIS 18 DAY OF JULY 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Petitioner: Ms. Baraka h/b Mr. Lwanga

Court Assistant: Libertine Achieng

