



REPUBLIC OF KENYA



In re the Estate of the Late Christopher Mwangi (Deceased) (Succession Cause E023 of 2024) [2024] KEHC 9683 (KLR) (1 August 2024) (Ruling)

Neutral citation: [2024] KEHC 9683 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE E023 OF 2024
JK SERGON, J
AUGUST 1, 2024
IN THE MATTER OF THE ESTATE OF THE LATE
CHRISTOPHER MWANGI (DECEASED)
AND
IN THE MATTER OF LIMITED GRANT AD COLLIGENDA BONA
AND
IN THE MATTER OF AN APPLICATION BY MERCY CHEROP
MWANGI
AND
IN THE MATTER OF SECTION 49 (3) OF THE LAW OF
SUCCESSION ACT AND RULE 36(1) OF THE PROBATE AND
ADMINISTRATION RULES**

RULING

1. The application coming up for determination is a petition for limited grant ad colligenda bona whereby the petitioner Mercy Cherop Mwangi is seeking for limited grant ad colligenda bona of letters of administration in respect of the estate of the Christopher Mwangi who died domiciled in Kenya on 5th April, 2024, limited for purposes of preserving, managing, collecting the properties of the estate as well as accessing funds acquired from the running of a butchery namely Wamore Butchery located at Mtaragon Centre, Kipkelion to enable her to continue managing, protecting her late husband's business.
2. The petitioner has filed an affidavit in support of the petition for limited grant ad colligenda bona.
3. The petitioner avers that Christopher Mwangi, the deceased and whose estate the proceedings herein relate is her husband.



4. The petitioner avers that the deceased died on 5th April, 2024 intestate as a result of Sudden Death Syndrome, she attached a copy of the death certificate. The petitioner further avers that the deceased was a business man aged 39 years at the time of his untimely death.
5. The petitioner avers that the deceased left behind their two children namely:- John Chege Mwangi aged 7 years and Princess Wanjiru aged 2 years. The petitioner attached a letter from the Chief's Office, Liloch Location in Kipkelion identifying her as a widow to the deceased and their two children as the surviving beneficiaries of the deceased.
6. The petitioner avers that there are funds in her husband's Safaricom Limited Till No. 5937981 A/C Name Christopher Mwangi, which her husband used for his butchery business, Cooperative Bank Till No. 452463 A/C Name Christopher Mwangi, a secondary till which her husband used for his butchery business and KCB Bank Ltd A/C Number 1283572389 A/C Name Christopher Mwangi which was her husband's savings account for proceeds received from his butchery.
7. The petitioner was therefore seeking a limited grant of letters of administration for accessing funds to enable her to continue preserving and managing her late husband butchery which is now a family business pending full succession.
8. Having considered petition and the affidavit in support of the petition, the sole issue for determination by this court is whether to grant limited grant ad colligenda bona for purposes of preserving, managing and collecting properties of the estate of the deceased, namely Wamore Butchery, pending full succession. The instant application is unopposed.
9. This Court takes cognizance of the fact that as a general principle of the law of succession, grants may only be made with notice under section 67 of the *Law of Succession Act* which provides as follows:
 67. Notice of application for grant
 - (1) No grant of representation, other than a limited grant for collection and preservation of assets, shall be made until there has been published notice of the application for such grant, inviting objections thereto to be 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.”
10. However, where special circumstances exist, the *Law of Succession Act* allows an application for a limited grant of letters of administration ad colligenda bona for purposes of collecting and preservation of the estate. The same is entrenched under rule 36 of the Probate and Administration Rules which provides that: “where owing to special circumstances the urgency of the matter is so great 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 defunct of the estate of the deceased.”
11. I note from the application and the affidavit in support that the applicant primarily seeks grant of letters ad colligenda bona in order to access funds from the deceased's accounts for purposes of managing and protecting her late husband's butchery business.
12. Consequently, a Grant of Letter of Administration ad colligenda bona is hereby granted to the petitioner for the purpose of accessing funds to enable her continue managing and operating her Late Husband's business namely:- Wamore Butchery.
13. Costs be in cause.



DELIVERED, SIGNED AND DATED AT KERICHO THIS 1ST DAY OF AUGUST, 2024.

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J.K. SERGON

JUDGE

In the Presence of:-

C/Assistant – Rutoh

No Appearance

