



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Isaac Lijoodi (Deceased) (Succession Cause  
194 of 2010) [2023] KEHC 20577 (KLR) (21 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20577 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
SUCCESSION CAUSE 194 OF 2010  
WM MUSYOKA, J  
JULY 21, 2023**

**RULING**

1. The application for determination is dated October 18, 2013. The applicant, Eldoret Express Limited, seeks to be paid Kshs 5,003,523.00 by the estate herein. It is pegged on an alleged fact that an administratrix of the estate, Julia Mutumbi, had acknowledged the debt. The debt is said to have arisen from an agreement that the deceased had entered into with the applicant on April 25, 2003.
2. The response to the application is by Brian Lijoodi, a beneficiary of the estate. He opposes the application. He avers that the money claimed was not refundable, and that the whereabouts of the vehicles, the subject of the alleged refund, were unknown. It is asserted that the deceased had settled the applicant, and that it was in fact the applicant who was indebted to the deceased.
3. The administrators replied to the application, vide grounds of opposition, dated February 7, 2023. It is argued that the applicant was guilty of laches, the application had been overtaken by events as the estate had already been distributed, the applicant was not a liability of the estate, the claim was not enforceable in succession proceedings, and the claim was time-barred.
4. The applicant is not a natural person, and, therefore, it is not a survivor of the deceased. It claims as a creditor of the estate. If that be the case, then it can qualify to be a beneficiary of the estate of the deceased. However, for the claim to hold, the debt ought to be acknowledged by the administrators, or the applicant ought to hold a valid court decree in their favour. I have no seen an acknowledgement of the debt by the administrators, neither has the applicant placed a valid court decree against the estate, obtained in separate proceedings. The ideal time to raise the issue should have been before distribution of the estate.
5. There can be no merit in the application, dated October 18, 2013, for those reasons. I hereby dismiss the same, with costs.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 21<sup>ST</sup> DAY  
OF JULY 2023**

**WM MUSYOKA**



**JUDGE**

