



REPUBLIC OF KENYA



In re Estate of Alice Wangui Mwaniki (Deceased) (Succession Cause E107 of 2024) [2024] KEHC 14611 (KLR) (15 November 2024) (Ruling)

Neutral citation: [2024] KEHC 14611 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
SUCCESSION CAUSE E107 OF 2024
DO CHEPKWONY, J
NOVEMBER 15, 2024
IN THE MATTER OF
MWANIKI WA NDEGWA PETITIONER**

RULING

1. The Petitioner herein has filed Petition for Special Limited Grant Ad Colligenda Bona dated 16th September, 2024 which is supported by the Affidavit of Mwaniki wa Ndegwa sworn on the instant date in his capacity as the husband/widower of the deceased herein.
2. The Petition has been filed in respect to the Estate of ALICE WANGUI MWANIKI (DECEASED) who died on 25th November, 2023.
3. It is the Petitioner's case that the purpose of seeking the Special Limited Grant is to assist him to secure the release and discharge of Title No. Dagoretti/Kinoo/4482 which is jointly owned by himself and the deceased and was charged to Family Bank Ltd. He holds that the subject property was used to secure a loan facility of Kshs 17,000,000/= which has since been fully repaid. He therefore intends to obtain the title deed of the property to enable him apply for a full Grant which he has been unable to file.
4. The Petitioner states that when he requested Family Bank Ltd to discharge the charge and release the original title deed for the subject property, the bank declined citing the fact that the deceased was a joint owner of the property and hence the Petitioner should apply for a Special Grant so that he can sign the Grant on behalf of himself and the deceased to enable the Bank comply and release the documents.
5. It is the Petitioner's contention that the matter is urgency given that two of his three children reside in Tanzania and they need to sign the Application for the full grant. Further, he avers that his health is not good he needs to seek further medical treatment out of the country. The Petitioner has urged the court to allow the Petition and issue him with the Special Limited Grant so that he can obtain the Title Deed for the subject property and thereafter Petition the court for a Full Grant.



Analysis and Determination.

6. It is thus trite that the Law of Succession, a party is allowed to make an application for a limited grant of letters of administration ad colligenda bona where special circumstances exist which grant is meant to collect and preserve the estate.
7. In applications for Limited Grant of Letters of Administration Ad Colligenda Bona, the first part of call is Rule 36 of the Probate and Administration Rules 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.”
8. In determining the Petition, I have read through the affidavits in support thereof and the annexures attached thereto and find that the Petitioner has satisfied his locus in the same. I have also considered the special circumstances the Petitioner has advanced in seeking the Special limited Grant and find the same legitimate.
9. The court therefore proceeds to allow the Petition dated 16th September, 2024 and direct that:-
 - a. A Special Limited Grant Ad Colligenda Bona do issue to
 - b. The Petitioner herein, Mwaniki Wa Ndegwa, only for purposes of securing the release and discharge of the property known as Title No.Dagoretti/Kinoo/4482 from the Family Bank Limited to enable him apply for full Grant.

It is so ordered.

**RULING DATED AND SIGNED AT KIAMBU THIS 15TH DAY OF ...NOVEMBER, 2024.
(UPLOADED VIA ELECTRONIC MAIL)**

D. O. CHEPKWONY

JUDGE

