

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

(FAMILY DIVISION)

SUCCESSION CAUSE NO 718 OF 2019

IN THE MATTER OF THE ESTATE AMITA BAGDA (DECEASED)

BHANENDRA KUMAR BAGDA.....APPLICANT

R U L I N G

1. The deceased herein **Amita Bagda** died testate on the 31st of March, 2019.
2. The Executor of his Will **Bhanendra Kumar Bagda** obtained grant of probate of the written will on the 4th of September, 2019.
3. Before court is an application by the Executor pursuant to **section 71(3)** of the **Law of Succession Act** and **Rule 40(1)** of **Probate and Administration Rules** seeking to have the grant of probate issued confirmed before the expiry of 6 months for the reasons that the Executor needs to file income tax return of 2018-2019 in India as late submissions will attract heavy penalties and interest.
4. Section 71 of the Law of Succession Act has permitted the confirmation of a grant before the expiry of 6 months if the court is satisfied that it would be expedient in all circumstances of the case so to do.
5. In my considered view, the reason given by the Applicant for early confirmation is not viable after all the grant of probate issued ought to allow her to undertake all actions necessary to preserve the estate pending confirmation. The lawyer's letter referred to dated 22nd August 2019 in support of the application required, presence of a grant and the same was issued on 4th of September, 2019.
6. For the above reasons the application is declined.

Dated and Delivered in Nairobi on this 16TH day of January, 2020

.....

ALI-ARONI

JUDGE