



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KABARNET

SUCCESSION CAUSE NO. 3 OF 2019

IN THE MATTER OF THE ESTATE OF THE LATE JOHN KIPRONO CHEPKWONY (DECEASED)

RULING

1. This is an application for confirmation of Grant before the expiry of six (6) Months after the making of a grant of representation of a deceased person. The court is empowered to make an order for early confirmation of grant under section 71 (3) of the Law of Successions Act as follows:

71 (3). The court may, on the application of the holder of a grant of representation, direct that such grant be confirmed before the expiration of six months from the date of the grant if it is satisfied—

a) that there is no dependant, as defined by [section 29](#), of the deceased or that the only dependants are of full age and consent to the application;

b) that it would be expedient in all circumstances of the case so to direct.

2. The Grant of Letters of Administration Intestate herein was made to the two administratrixes, Rose Kobilu Kiprono and Anastacia Jepkurui Kiprono, respectively the widow and eldest daughter of the deceased, on 29th November 2019 and it has been two months since the grant.

3. By Certificate of Urgency, the administratrixes have sought early confirmation of grant citing the need for one of the co-administratrixes to return to her work at the United States of America as set out in paragraphs 2 and 3 of the Affidavit in support of the application for confirmation as follows:

“2. THAT it is expedient that the grant be confirmed before the expiration of 6 months as ANASTACIA JEPKURUI KIPRONO who is a dependant and an administratrix of the estate lives and work in the United States of America and the time to return to work is about to run out. Annexed hereto is the air ticket marked as ‘B’.

3. THAT upon her return to the United States of America it will be difficult and costly to obtain permission to return to Kenya for the process of confirmation of grant when the full 6 months provided for in the statute shall be complete”.

4. The two administratrixes in this succession cause have demonstrated by their joint affidavit sworn on 3rd February 2010 in support of the application that the other two beneficiaries who are not administrators, namely Celestine Jepkech Kiprono and Silverious Kiprotich Kiprono, respectively daughter and son of the deceased, both adults have consented to the proposed distribution of the estate set out in paragraphs 7 and 8 of the supporting affidavit.

5. While the daughter Celestine Jepkech Kiprono who resides in America and who explained her inability to attend court and confirmed her consent to the proposed distribution in her affidavit sworn and notarised in Georgia, Cobb County, United States by Notary Public Seth Maconnel on 30th January, 2020, the other beneficiary, Silverious Kiprotich Kiprono, son of the deceased, attended court and was examined by the court on oath when he confirmed his consent to the proposed distribution.

Determination

6. In terms of section 71 (3) of the Law of Succession Act, the court has confirmed from the record that there is no pending application for dependency by any person and that the beneficiaries of the estate have consented to the proposed distribution, which is consistent with the principle of distribution under sections 35 and 37 of the Law of Succession Act in cases of intestate succession of an estate where there is a widow and children in equal shares subject to the widow's life interest, as the two administratrixes hold the estate property on behalf of themselves and the other two beneficiaries, which according to law must be in equal shares.

7. The court has confirmed that the estate assets have been identified, the beneficiaries identified and their respective shares determined as

set out above.

8. The court also accepts the reason for urgency given by the applicants being the need to return to work outside the country by the 7th February 2020 and the significant cost of return to Kenya for purposes of confirmation upon expiry of six months prescribed in section 71 (1) of the Law of Succession Act as sufficient cause for the early confirmation of the Grant under the exception of section 71 (3) of the Act.

Orders

9. Accordingly, for the reasons set out above, the court confirms the Grant of Letters of Administration Intestate herein made on 29th November 2019 before the expiry of the six months period, pursuant to section 71 (3) of the Law of Succession Act and on account of the urgency demonstrated in the application.

10. Costs in the Cause.

Order accordingly

DATED AND DELIVERED THIS 5TH DAY OF FEBRUARY 2020.

EDWARD M. MURIITHI

JUDGE

Appearance

Mr. Kipkulei, Instructed by M/S Wambua Kigamwa & Co. Advocates for the Administratrixes.