

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

SUCCESSION CAUSE NO. 488 OF 2017

IN THE MATTER OF THE ESTATE OF THOMAS AKWALU LINTARI (DECEASED)

RULING

1. application dated 25th April, 2017 filed under certificate of urgency seeks the court's leave to issue a special limited grant of letters of administration in respect of the estate of Thomas Akwalu Lintari (deceased) to his wife Mary Koono Akwalu the applicant herein for purposes of accessing and withdrawing a sum of Kshs.650,000/= from his (deceased) account No. [particulars withheld] Co-operative Bank Buruburu branch.

2. Application which is filed pursuant to Section 67 of the Law of Succession Act Cap 160 is premised on the grounds on the face of it and supporting affidavit sworn by the applicant herein. According to the applicant, before her late husband passed away, he had entered into a sale agreement with William Kiprono who sold him a motor vehicle registration KBN 147B at 850,000/=. That the deceased paid a down payment of 200,000/= and the balance was to be paid later but unfortunately he died before clearing the amount.

3. That sometimes during the month of December, she received a demand letter dated 5th December, 2016 from Omony and Co. Advocates, demanding for clearance of the balance of 650,000/= within 7 days in default the motor vehicle was to be repossessed. It is for this reason that the applicant with the consent of her children Ruth Gakii and Christopher Ntombura came to court and applied for authority to access the deceased's account for purposes of the said amount so as to clear the debt.

4. The applicant attached a demand letter from the advocate, letter from the Chief, Uthiru Location introducing the estate and beneficiaries and the log book of the motor vehicle bearing Kiprono's name as the motor vehicle owner. Having considered the application herein and affidavit in support, I am convinced that there is need to clear the debt so as to salvage the motor vehicle.

Accordingly, application herein is allowed with orders as follows:

(a) That the applicant be and is hereby authorized to access account No. [particulars withheld] held in the name of Thomas Akwalu Lintari (deceased) at Co-operative Bank Buruburu branch for purposes of withdrawing Kshs.650,000/= only so as to clear a debt in respect of motor vehicle registration No. KBN 147B.

(b) That the said amount be paid by the bank directly to the account of William Kiprono.

(c) That the applicant do petition for a full grant within 90 days from today.

Order accordingly.

DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF JULY, 2017.

J.N. ONYIEGO (JUDGE)

In the presence of

.....Counsel for the applicant