

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

SUCCESSION CAUSE NO. 856 OF 2017

**IN THE MATTER OF THE ESTATE OF MARGARET MATENDECHERE KWASA
(DECEASED)**

RULING

1. Through application dated 28th June, 2017, the petitioners/applicants herein filed a petition for letters of administration pendente lite seeking court's leave to access account No. 0011696007 Transnational Bank Ltd held in the name of their deceased mother Margaret Matendechere Kwasa who passed away on 15th June, 2017.

2. The application is supported by a joint affidavit deponed by Clement Onyango Kwasa and Judith Katono Kwasa the applicants herein. The application which is filed under certificate of urgency sought for a limited grant permitting the applicants to access the said bank account for purposes of withdrawing Kshs.495,000/= to enable them prepare and organize for the funeral of their late mother, Kshs.70,000/= for house rent, Kshs.3500/= for electricity and water, Kshs.40,000/= for car fueling and maintenance, 79,000/= for house shopping, food and incidentals and Kshs.100,000/= for Clement Kwasa being his monthly daily upkeep.

3. The deceased who has since been buried, is survived by six children all of whom are adults namely Donald Otieno Kwasa, Carol Miriam Adero Kwasa, Nicholas Dodo Kwasa, Thomas Omollo Kwasa and Judith Katano. Three of the said children inter alia Donald Otieno Kwasa, Nicholas Dodo Kwasa and Thomas Omollo Kwasa are residing in the U.S.

4. The applicant averred that before their mother died, she was staying with Carol Miriam Adero Kwasa at Mariba Apartments where she was paying monthly rent of 70,000/= and that the only source of income is cash in their mother's account where money from rental houses owned by her (deceased) is remitted by tenants. The applicants listed land parcel No. Songoh/Tenderet 3/ 10817, six apartments on LR 1876/111 Westlands, motor vehicle KBW 654L Mazda Demio and shares in Charismata Sacco.

5. I have considered the application herein and supporting affidavit. The application is not supported by any consent from all beneficiaries as required in law. Secondly, apart from Carol who was staying with the mother before her death, the applicants did disclose what they do to earn a living and therefore their financial status vis a vis dependency on their mother prior to her demise. There is nothing of a special nature demonstrated or otherwise to warrant issue of the orders sought.

6. I have not been given sufficient reasons as to why the applicants cannot petition for a full grant. Accordingly and for the reasons stated herein above, application is dismissed with orders that the applicants do petition for a full grant. However, for purposes of collection and preservation of the estate the applicants perhaps can seek a limited grant of letters of administration ad colligenda bona – pending filing of a full grant.

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

J.N. ONYIEGO (JUDGE)

In the presence of

.....Counsel for applicant