

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

MISC P & A 119 OF 2016

IN THE MATTER OF THE ESTATE OF THOMAS NDAMBIRI KARIUKI (DECEASED)

LUCY WANJIRU NDAMBIRI.....APPLICANT

EX PARTE RULING

1. This is an *ex-parte* application by the petitioner seeking a grant of letters of administration ad litem in respect of the estate of her deceased husband. According to the petitioner, she seeks the order to authorize her to have access to the bank account of her deceased husband, in which are deposited sums of money, which she has deponed are proceeds of the pension of her husband. She has further deponed in the supporting affidavit that she was informed by Equity Bank, Embu branch, that it was necessary for her to obtain a limited grant for purposes of operating the bank account of her husband.

2. Furthermore, she has also deponed that she was a dependent of her deceased husband and is necessary for her to have access to that account to support herself and her family. Finally, she has deponed that she will operate the account very diligently.

3. I have considered her affidavit evidence in support of her petition. I find that this is not a proper case for granting a limited grant of letters of administration intestate. It is a cause where the petitioner needs to file a succession cause in respect of her deceased husband. This is the procedure that is authorized by the Law of Succession Act (Cap 160) Laws of Kenya. The procedure authorized by the Law of Succession Act is intended to protect the rightful beneficiaries of the estate as well as creditors. And this can only be done after having been ascertained in the authorized manner. I must point out that I had earlier on on 10th August 2016 granted the application *ex parte* by mistake, which I thought was necessary to be corrected by a written ruling as I have now done.

4. The petitioner's application is hereby dismissed.

5. There will be no orders to costs.

6. Orders accordingly.

J. M. BWONWONGA

JUDGE

07/09/2016