



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE 1601 OF 2015

IN THE MATTER OF THE ESTATE OF C F P III (DECEASED)

C S B.....1ST PETITIONER

VERSUS

J P.....2ND RESPONDENT

RULING

1. By an application filed on 24th September, 2015 under certificate of urgency Counsel for the Applicant applied for the child of the deceased **A B P** to be allowed due to special circumstances to obtain funds for medical care and special school needs.
2. By an earlier application filed on 27th August 2013, the subject of this matter confirmed he is the biological son of the deceased herein as evidenced by the birth certificate attached as '**CSB1**'. A medical report dated 6th October, 2004 and the updated medical report from Getrude Children's Hospital of 1st October, 2015, both confirm that the child is diagnosed with Dobowitz Syndrome, a condition that causes mental retardation of mild to moderate degree, eczema, hyperactivity and failure to thrive and ENT problems.
3. The deceased supported the minor before he died. This support included having a medical cover for the child.

The child's best interests and welfare are being adversely affected as his medical cover has not been renewed since his father died on 20th May 2015 as evidenced by the death certificate attached as '**CSB1**'. The medical fees are at Ksh. 116,198.97 as per '**CSB3**' documents from Resolution Health Insurance Company.

4. Due to the child's condition he requires to attend a special school to cater to his special needs and also offering early intervention programs to help with his development. The Applicant attached the school documents dated 1st September 2015 from Kenya Community Centre for learning fee invoice show a fee of Ksh. 385,500/= .
5. The mother of the child C S B widow of the deceased is seeking debts listed to be paid as per the attached document '**CSB5**'.
6. The Court finds that the application is brought under urgent and special explained circumstances from the pleadings and annexures.

7. The Court is satisfied from the evidence that this case merits the grant of special limited grant due to the urgent and special circumstances of the child of the deceased.
8. The Applicant's mother and an aunt of the child have complied with the requirements of the special limited grant as provided by **Section 54 of the Law of Succession Act Cap 160** and the **5th Schedule of the Probate and Administrators Rules**. The Applicant attached;
 - a) The deceased's certificate;
 - b) The child's birth certificate;
 - c) The consents of mother and aunt of the child;
 - d) The letter from the Local Administration;
 - e) The medical cover documents;
 - f. The special need school fees structure.
9. The special limited grant is therefore granted to pay;
 - a. Ksh. 385,000/= to Kenya Community Centre for learning
CFC Stanbic Bank-upper hill Branch A/C No. [particulars withheld] for the child's special education
 - b. Ksh.116, 198.37 be paid to Resolution Health Insurance Company for the child's medical care.
 - c. The widow C S B to be paid Ksh. 500,000/= for deceased's debt repayment and subsistence expenses from the deceased's account.

The funds be withdrawn and transferred to the respective institutions and various accounts from the deceased's **Account Number [particulars withheld] Barclays Bank**.

10. The Applicants shall proceed to apply for a full grant within 90 days under **Section 67 of the Law of Succession Act Cap 160**. In default the special limited grant shall expire.

READ AND SIGNED IN OPEN COURT AT NAIROBI THIS 6TH DAY OF OCTOBER, 2015

M. W. MUIGAI

JUDGE

In the presence of:

Counsel for the Applicant Ms. Wangui Kimani