



**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**SUCCESSION NO. 198 OF 2013**

**IN THE MATTER OF THE ESTATE OF THE LATE PETER OKINS OJWANG RAKWACH**

**ANNE OLWAL RAKWACH.....PETITIONER**

**RULING**

I have considered the application dated 14/6/2013, in which Anne Olwal Rakwach seeks an order that the letters of administration issued to her on 5/6/2013, be partially confirmed to enable her execute the transfer instruments to dispose off Motor Vehicle KAQ 88G, operate the deceased's Bank Account at Housing Finance Company of Kenya Limited, Account Number 2000049951 and to operate the deceased's Bank Account at Equity Bank Limited, Account Number 310296997332.

This application relates to the estate of Peter Okins Ojwang Rakwach who died on 10/7/2012. The grant of letters of administration was issued to the petitioner/applicant on 5/6/2013, just a month ago. The petitioner now applies for partial confirmation of grant. The beneficiaries who are the applicant's sons appeared in court on 28/6/2013, and indicated that they had no objection to the application.

As deponed in the applicant's affidavit dated 14/6/2013 at paragraph 7, Kenneth Ouma Rakwach finished his Engineering course in University of Nairobi but has not obtained his degree certificate because of non payment of fees and secondly that Emmanuel Nimrod Odhiambo Rakwach attends Catholic University of Nairobi and has not paid his fees. The applicant has not indicated exactly what fees is outstanding as relates to Kenneth Ouma. Annexures 3 does not assist the court. Ex.3, a letter dated 29/1/2013, indicates that Kenneth Ouma Rakwach has not yet paid fees and can not get his degree certificate. There is then attached, a detailed fee statement which dates way back 2001 to 2011. Does it mean that the said Kenneth was in University from 2001 till 2011. In 2011, the deceased was still alive and why were the sums not paid when the deceased was alive. In my view, that payment, if at all, cannot be urgent and will await the confirmation of grant. Ex. 4 relates to Emmanuel Nimrod's fees. The fees is calculated from 2011 when the deceased was alive the balance standing at Kshs.100,250/-. There is also a fee note for payment of hostel accommodation. It is dated 21/3/2013. Those are current bills and in my view, they can be paid at this stage of the proceedings.

At paragraph 8, the applicant claims that the estate has debts which the applicant wishes to settle. Ex.1 does show that the deceased had a loan with Housing Finance Company. I note that no payments have been made since September 2012. There is, however, no demand notice. The question is whether or not the said loan was not insured and paid off upon death of the insured. Ex.5, 6 and 7 do demonstrate that the estate does owe some money to KRA, Rumish Ltd and Nakuru Dental Centre all totaling Kshs.391,424. By Ex.4, it seems that Emmanuel Nimrod Odhiambo Rakwach requires fees and money for accommodation all totaling Kshs.160,250/-.

As regards Kenneth Ouma Rakwach, the fees that is outstanding is not clear and as noted earlier, it is unclear why his fees was never paid when the deceased was alive. If indeed any fees is outstanding as regards Kenneth Ouma, it will await full confirmation of grant because the amounts involved seem to be large and they have been outstanding long before the deceased's demise in any event.

Since an agreement has been reached regarding sale of motor vehicle KAQ 88G for Kshs.950,000/-, the

court will allow the sale to proceed and the above Kshs.500,000/- for Emmanuel's fees and debts the outstanding be deducted from the sale proceeds. The applicant can use the balance for the other needs of the beneficiaries pending confirmation. However, I allow partial confirmation of grant in those terms. The prayers to allow the applicant to operate the deceased's Bank Account in Housing Finance Company Limited Kenya and Equity Bank are not allowed at this stage. The applicant will await full confirmation of grant. It is so ordered.

Costs be in the cause.

**DATED and DELIVERED this 4<sup>th</sup> day of July, 2013.**

**R.P.V. WENDOH**

**JUDGE**

**PRESENT:**

Ondende for the petitioner/applicant

Kennedy – Court Clerk