

REPUBLIC OF KENYA

IN THE HIGH COURT AT CHUKA

SUCCESSION CAUSE NO. E003 OF 2025

IN THE MATTER OF THE ESTATE OF FRANKLIN

MBUBA NDII (DECEASED)

R U L I N G

1. By way of a Chamber summons dated 16th July 2025, the Applicants moved this court seeking the following orders:-

- i. Spent
- ii. Spent
- iii. The grant of letters of administration intestate issued to the Applicants herein on the 5th day of May 2025 be confirmed notwithstanding that six (6) months from the date of the said grant have not expired, to enable the administration of the estate without delay.

- iv. The administrators do conclude the establishment of the proposed family trust as the mode of distribution of the estate for the benefit of all dependents and beneficiaries.
- v. Mrs. Doreen Kawira Mbuba be and is hereby appointed as the legal guardian and joint trustee of the two minors namely Gloria Mbuba and Kimathi Mbuba, for purposes of safeguarding their interests in the estate.
- vi. That pending the hearing and determination and/or confit of the grant, a colligenda bona issue to collect and preserve the estate and draw Kshs. 3,000,000 from Equity bank account number 0010101203065 and 0296382848 to settle accounts with mi vida ltd and

light academy and for the best interest of the minors.

vii. That this honourable court provides a periodic time stamp within which the administrators shall render an account of the estate administration and confirm the registration of the Family Trust.

viii. That costs of the Application be in the cause.

2. The Application is premised on the grounds set out on its face and the Supporting affidavit of Doreen Kawira Mbuba and Lisa Kawira Mbuba, the Petitioners and joint administrators of the estate deponed on even date. They stated that the deceased died intestate on 9th October 2024 leaving behind a widow and five children as set out in the petition. That the estate comprises substantial movable and immovable assets, including an operational farm, coffee factory and a

hotel business which require immediate, present and hands on management to avert catastrophe, financial and operational collapse.

3. The Applicants stated that although the statutory period of six months for confirmation of grant has not lapsed, there are compelling exceptional circumstances necessitating immediate confirmation of the grant namely:-

(i) the need to facilitate urgent medical treatment abroad for Peter Mbuba who suffers from a degenerative brain condition and is undergoing surgery and deserves immediate funding.

(ii) The urgent need to meet educational and school fees needs for the minor children David Kimathi Mbuba and Patricia Gloria Sanya.

(iii) The need to settle an outstanding debt of Kshs. 5,000,000 in respect of a pending apartment purchase.

4. The Applicants stated that the family has unanimously agreed to implement a structured mode of distribution by establishing the Ndii Mbuba Legacy Trust through which all the assets will be held and managed for the benefit of all the dependents and beneficiaries. Further, that in particular to the interests of the minor beneficiaries Gloria Mbuba and Kimathi Mbuba will be secured through the appointment of Mrs. Doreen Kawira Mbuba as their guardian and joint trustee under the trust, to hold and manage their interests in accordance with the law.

5. It was deponed that in relation to the family-owned company, Lowlands Hotel Ltd, the family had agreed to re-distribute the shareholding with the surviving spouse at 36%, 10% to each child and 4

% for administrative purposes. Further, that an interim valuation report had been prepared showing the status of the estate and its management during the period of administration.

6. It was further deponed that in addition to seeking confirmation of the grant and establishment of the family trust, the court grant authority to collect, preserve and manage the estate assets ad colligenda bona to prevent wastage. Lastly, the immediate access of Kshs. 3,000,000 held at Equity bank account numbers 001010203065 and 0296382848 would suffice to clear a pending instalment with Amaya at Mi vida Ltd and the pressing farm and school expenses.

7. The Application was orally argued by the Applicant's counsel in court. He reiterated the averments contained in the supporting affidavit aforestated.

Analysis and determination

8. I have considered the Application. The only issue for determination is whether the applicant can be allowed to bring Summons for confirmation of grant before expiry of the six-month statutory period.

9. Section **71(1)** of the **Law of Succession Act** provides that a grant of representation shall not be confirmed until the expiration of six months from its date. However, **Rule 40(4)** of the **Probate and Administration Rules** empowers the Court, for good cause shown, to confirm a grant earlier.

10. The Court has discretion to allow early confirmation where exceptional or compelling circumstances exist such as where estate assets risk waste, dependents face undue hardship, or for urgent financial obligations which must be met.

11. I am persuaded by the case of **In re Estate of Veronica Njoki Wakagoto (Deceased)**

[2013] eKLR, where Musyoka J. held that early confirmation may be granted “where the exigencies of administration demand timely intervention to avert loss or injustice.”

12. I have considered the circumstances in this case particularly the urgent medical and educational needs of the beneficiaries and the risk of financial loss to the estate. I am persuaded that these circumstances justify an order for early confirmation of the grant. Further, from the documents placed before me, it was clear that all the beneficiaries were in agreement for an early confirmation of the grant.

13. I find the Application merited. I grant order (iii) allowing the early confirmation of grant. The rest of the prayers belong to the substantive Summons for confirmation of grant.

14. The Petitioners are at liberty to set down the said Chamber Summons for hearing.

**Ruling delivered, dated and signed at Chuka
this 15th day of October , 2025.**

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R. LAGAT-KORIR

JUDGE

**Ruling delivered in the presence of Mr. Mwendani
for the Applicant. Muriuki (Court Assistant).**