

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
FAMILY DIVISION
PROBATE & ADMINISTRATION CAUSE NO. E979 OF 2025

IN THE MATTER OF THE ESTATE OF JOSEPH MUTHEKI IRUNGU
(DECEASED)

JOSEPHINE WAGATURI IRUNGU PETITIONER

RULING

1. The Deceased herein passed away on 23 July 2025 in Nairobi County. He died intestate. The Petitioner has presented a Petition for Special Limited Grant dated 30 November 2025. The same is presented in the capacity as a mother to the Deceased.
2. The Petition is supported by an Affidavit by the Petitioner in which she avers that at the time of his death, the Deceased operated a bank account at EQUITY BANK LTD, KNUT HOUSE BRANCH, ACCOUNT NO. 0350196593606. The Petition seeks an order to authorise access to the said funds, which she avers amount to Ksh 100,000/=.
3. The Deceased is survived by two beneficiaries, his children aged 15 years and 6 years, respectively. The letter from the Chief, Yamungwe Sub-location, dated 20 August 2025, indicates that the children are in the custody of their grandparents. The Petitioner testified that the children have been residing with her since their father was taken ill. She does not know where their mother is.

4. According to the Petition, the Petitioner would like to access the funds in the Deceased's accounts in order to offset the hospital bill from Kenyatta National Hospital. The attached copy indicates an outstanding balance of Kshs 2,413,326/= as at 20 December 2024. No current bill has been presented to the Court.
5. When she appeared before the Court, the Petitioner informed the Court that she would like to access the funds in order to be able to cater for the expenses of her two grandchildren, the children of the Deceased. Further, the Petitioner informed the Court that the Deceased was in construction work, yet the letter from the Chief indicates that the Deceased was a motor bike rider.
6. The contradictions are noted. However, a party is bound by their pleadings.
7. Sections 54 and 67 (1) of the Law of Succession Act, Cap 160 of the Laws of Kenya and Rule 36 of the Probate and Administration Rules provide the circumstances under which a Special Limited Grant may be issued by the Court.

(54) A court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act.

(67) (1) No grant of representation, other than a Limited Grant for Collection and Preservation of Assets, shall be made until there has been published notice of the application of such grant, inviting objections thereto to me made known to the court within a specified period of not less than thirty days from the date of publication, and the period so specified has expired.

(36)(1) Where, owing to special circumstances the urgency of the matter is so great that it would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of a grant of administration ad colligenda bona defuncti of the estate.

8. I have considered the Application and attachments. It is clear that there are pressing financial needs by the Petitioner that must be met. In the circumstances, any authority to access the money in the accounts should be limited to settling the outstanding hospital bill, as pleaded.
9. In order to preserve the assets of the estate, the access granted to the Petitioner shall be limited to EQUITY BANK LIMITED, KNUT BRANCH, ACCOUNT NO. 0350196593606, held in the name of the Deceased. The said funds are to be used to settle the outstanding hospital bill. Any further dealing with the estate of the Deceased must be with the authority of the Court or upon full grant of representation.
10. In summary, I make the following orders:
 - (i) That a Special Limited Grant is hereby issued to the Petitioner only for purposes of settlement of the hospital bill from Kenyatta National Hospital in respect of the Deceased herein;
 - (ii) That the Petitioner shall have access to the Deceased's bank account held at EQUITY BANK LIMITED, KNUT BRANCH, ACCOUNT NO. 0350196593606, for purposes of withdrawing sums therefrom, which sums of money shall be payable directly to Kenyatta National Hospital;
 - (iii) That the Petitioner shall furnish the Court with statements of the bank account within 30 days of the date hereof.
 - (iv) This being a family matter, I make no orders on costs.

DATED AND DELIVERED AT NAIROBI THIS 18 DAY OF DECEMBER 2025

**HELENE R. NAMISI
JUDGE**

Delivered on virtual platform in the presence of:

Petitioner: Ms Kisiangani

Court Assistant: Lucy Mwangi

Ruling