

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MOMBASA**  
**(FAMILY DIVISION)**  
**SUCCESSION CAUSE NO. E113 OF 2021**  
**IN THE MATTER OF THE ESTATE OF AKRAM AMRANI MOHAMED**  
**(DECEASED)**

1. AMRAN AKRAM AMRAN.....1<sup>ST</sup> PETITIONER  
2. HINDU AKRAM AMRAN.....2<sup>ND</sup> PETITIONER  
3. MARIAM AKRAM AMRAN.....3<sup>RD</sup> PETITIONER

**VERSUS**

1. SHADIA AKRAM AMRAN.....1<sup>ST</sup> PROTESTOR  
2. 2. ZAINAB MWABUI aka ZEINAB AKRAM.....2<sup>ND</sup> PROTESTOR

**RULING**

1. The Summons before the Court is dated 4<sup>th</sup> February 2025. It was filed by **Hindu Akram Amran** and **Mariam Akram Amran**. Vide the said summons, they seek the following orders: -
- (1) That all the costs and expenses incurred by the administrator's petitioners in the administration of the estate of the deceased be borne by the estate of the deceased;
  - (2) That this honourable Court issues any other orders that it considers just and fair in the circumstances; and
  - (3) That the costs of this application be borne by the estate of the deceased.
2. The applicants contend that under section 83(a) to (d) of the Law of Succession Act, all the expenses and costs incurred by administrators on behalf of the estate of the deceased are borne by the estate before the

distribution of the estate of the deceased. They contend the administrators personally incurred enormous administrative costs and expenses on behalf of the estate, including the financial cost of supporting **Jabril Amran Akram**, a child of the late **Amran Akram Amran**. The said expenses were paid for without the assistance of the other beneficiaries.

3. The application is opposed. The protestor filed grounds of opposition dated **11<sup>th</sup> March 2025**, in which it was stated that upon delivery of the ruling on 22nd October 2024, the Court became *functus officio* and that by dint of section 7 of the Civil Procedure Act, the matter was *res judicata*.
4. In the replying affidavit sworn on **11<sup>th</sup> March 2025**, Ms. Shadia Akram Amran deposed that the costs claimed could not be a liability of the estate; they either accrued before the grant was issued or were payable from the estate of a deceased beneficiary.
5. The applicants filed a supplementary affidavit sworn on **16<sup>th</sup> April 2025** in which they reiterated the contents of the supporting affidavit.
6. The application was also opposed by Mr. Akrim Mohamed, who deposed to an affidavit on **17<sup>th</sup> April 2025** in which he stated in part that a similar application was filed before the Kadhi but was not allowed.
7. The application was canvassed by way of oral submissions on **29<sup>th</sup> April 2025**. I have considered the said submissions, the summons, the responses thereto, as well as the applicable law.

8. It has been stated that the matter before the Court is *res judicata*. In my view, that is not the case. The Court did not make a determination regarding costs in the ruling it delivered on **22<sup>nd</sup> October 2024**. It is in recognition of this fact that the Court, on 6th January 2025, ordered the administrators to file an application seeking ascertainment of costs and who should pay them.

9. Section 83(c) of the Law of Succession Act lists the duties of personal representatives as including: -

***“ (c) To pay out of the estate of the deceased all expenses of obtaining the grant of representation, and all other reasonable expenses of administration (including estate duty, if any).”***

10. My understanding of the foregoing is that personal representatives may be reimbursed for reasonable expenses they incurred on behalf of the estate. **In re Estate of Julius Mimano (Deceased) [2019] KEHC 10103 (KLR)**, the Court stated that: -

**“60. Section 83 of the Act imposes duties on personal representatives to pay for the expense of the disposal of the remains of the deceased, to get in or gather or collect the assets of the estate, to pay for the expenses of the administration of the estate, to ascertain and pay out all debts and liabilities, and eventually to distribute the assets amongst the persons beneficially entitled. The discharge of these duties would naturally attract an account, in terms of the personal representative stating whether they discharged the said duties and disclosing the expenses that they incurred in the process of discharge...”**

11. I have perused the application. In my view, the administrators are entitled to be paid from the estate for costs they incurred in obtaining the grant. The costs of securing the assets of the estate were, in my view, properly incurred, as were the costs of valuation and the legal costs incurred while acting as administrators. I allow the same.
12. I disallow all expenses allegedly incurred before the issuance of the grant. The cost of **Kes.229,000/- incurred by** the administrators in the education of **Jabril Amran Akram** is disallowed as well. That cost is recoverable from the estate of Amran Akram Amran (deceased).
13. The costs I have allowed above shall be paid out of the estate of the deceased before its distribution.
14. Costs are at the discretion of the court. I order that the parties shall bear the costs of the application.
15. It is so ordered.

**Dated and signed at Mombasa, this 9<sup>th</sup> day of December 2025. Delivered virtually through Microsoft TEAMS.**

**Gregory Mutai  
JUDGE**

In the presence of:-

Mr Lewa, for the Protestors;

Mr Muriithi, for the Administrators; and  
Mary – Court Assistant.

Original