

REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE NO. E063 OF 2025

IN THE MATTER OF THE ESTATE OF ARTHUR MAINA
KARUE alias ARTHUR MAINA (DECEASED)

JESCA AWIDO KEFA

PETITIONER

RULING

1. The petitioner filed a petition dated 2.12.2025 seeking for grant of letters of administration *ad colligenda defuncti*. In the petition, the petitioner included as Respondents persons who are neither parties nor necessary for the application. The main petition has been filed, which is not the subject of this ruling.
2. There is an underlying petition for letters of administration interstate, which includes three wives, 2 daughters, and a parent. The same has not been published in the Kenya Gazette.
3. They have now purported to withdraw the same against the 1st, 2nd, and 4th Respondents to remain with the 3rd Respondents.

4. This, however, is a succession cause which has no provision for parties to purport to have non-parties in a succession cause; it is anathema to good order and proper administration of justice. By joining non-entities in an application they will never know, it offends the doctrine of *audi alteram partem*. The grant of letters of administration *ad colliegenda bona defuncti* are applied by dint of Section 54 of the Law of Succession Act. The said section provides as follows:

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.

5. This petition for the grant of letters of administration *ad colliegenda bona defuncti* lacks inherent merit and is accordingly dismissed. The court notes that it gave an order. The file is referred to the registry for publication of the petition in the Kenya Gazette. The matter shall be mentioned to confirm progress. The petitioner must ensure strict compliance and publication in the Kenya Gazette.

6. Meanwhile I direct that the applicant shall file no other application until the grant had been gazetted. No application shall be filed before the file has been advertised in the Kenya Gazette.

Determination

7. In the circumstances, I make the following orders:

- a) The petition for letters of administration *ad colligenda defuncti* is dismissed.
- b) The matter be mentioned on 12.10.2026 after publication.

DELIVERED, DATED and SIGNED at **NYERI** on this **3rd** day of **February, 2026**. Ex Tempore Ruling delivered through Microsoft Teams Online Platform.

KIZITO MAGARE
JUDGE

In the presence of: -

Ms. Atieno for the petitioner

Court Assistant - Michael

ORIGINAL