

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT THIKA**  
**SUCCESSION CAUSE NO. E032 OF 2025**  
**IN THE MATTER OF THE ESTATE OF ZAKARIA KINYA**  
**KWERI (DECEASED)**

**MOSES KWERI KINYA.....**  
**PETITIONER**

**R U L I N G**

**Brief Facts**

1. The summons for determination dated 25<sup>th</sup> November 2025 seeks for orders of confirmation of grant before the expiry of six months.
2. The petitioner states that he is the son of the deceased who died on 10<sup>th</sup> August 2021. He further states that he is the sole administrator and beneficiary of the estate as the deceased did not have any other children. The petitioner avers that prior to the deceased's death, he was partially dependent on him for the provision of support, including care of his well being and day to day needs. He further states that he is unwell and in urgent need of financial resources to facilitate immediate treatment failure of which will place his life and well being may be thrown into serious jeopardy.

3. The petitioner thus prays that the court confirm the grant issued on 28<sup>th</sup> October 2025 notwithstanding that the statutory six months have not expired.
4. In support of the application, the area chief Peter Gathua Kariuki swore an affidavit dated 18<sup>th</sup> December 2025 and states that the deceased was a resident of Gatakani Gatanga and he passed away intestate on 10<sup>th</sup> August 2021. The deponent states that he issued a letter dated 23<sup>rd</sup> April 2025 in his capacity as area chief to assist the petitioner in obtaining letters of administration in respect of the estate of the deceased.
5. The deponent avers that the deceased married Hannah Wakonyo Kinya, who passed away on 27<sup>th</sup> February 2025. Their union bore one child, the administrator who is the sole surviving beneficiary of the estate of the deceased.
6. The applicant further filed an affidavit by Daniel Kabari Kweri, a brother to the deceased, dated 15<sup>th</sup> December 2025. The deponent avers that the deceased married one Hannah Wakonyo Kinya who passed away on 27<sup>th</sup> February 2025 and their union produced one child, the petitioner who is the sole beneficiary of the estate of the deceased.

## **The Law**

7. **Section 71(3) of the Law of Succession Act** provides for instances when a grant can be confirmed before the expiry of six months. It provides:-

**The court may, on the application of the holder of a grant of representation, direct that such grant be confirmed before the expiration of six months from the date of the grant if it is satisfied-**

**a) That there is no dependant, as defined by Section 29 of the deceased or that the only dependants are of full age and consent to the application;**

**b) That it would be expedient in all the circumstances of the case so to direct.**

8. On perusal of the instant summons, the petitioner states that he is the only child and sole beneficiary of the estate of the deceased as his mother passed away on 27<sup>th</sup> February 2025 as evidenced by the death certificate. Thus, there are no other dependants to consent to the application. The petitioner has further annexed a medical report dated 21<sup>st</sup> August 2025 from Mama Lucy Kibaki Hospital indicating that he showed onset neurological issues which would require the medical facility to carry out investigations and subsequent treatment. I have looked at

the inventory of assets and liabilities and noted that the deceased held funds in various bank accounts. Furthermore, the petitioner has not produced official searches, the title documents, and other relevant documents herein. The share certificates for the various shares have not been annexed. For the grant to be confirmed, the applicant is required to produce evidence of existence of the said properties to avoid this court make orders in vain.

9. The applicant has not provided particulars of the budget he requires for his medical treatment which is the urgent matter herein.
10. Based on the medical report of Dr. Brain Ogenya of Mama Lucy Kibaki Hospital dated 21<sup>st</sup> August 2025, this court will outhorise treatment funds for the applicant from some of the deceased's bank accounts. Unfortunately, the balances in the said accounts are not known and the cost of treatment has not been indicated. Be as it may, this court finds the current application partly successful and make orders as follows: -

a) That the grant is partially confirmed in favour of the applicant as the sole beneficiary in respect of three (3) Kenya Commercial Bank accounts in the name of the deceased namely Nos.1125057572, 1227202121 and 5155378.

b) That the applicant files the documents of ownership, that is, official searches, share

certificates which are not on record before filing an application for confirmation of grant in respect of the remaining assets.

c) That affidavits of two persons namely Samuel Kimani Mureu and Ezekiel Mioru Kweri being the persons who confirmed before the Chief that the applicant is the sole beneficiary of the deceased's estate and annexed certified copies of their identity cards.

d) That an original letter of the chief with a clear signature, date and other particulars to be filed within 30 days.

e) That the applicant shall apply for confirmation of grant after compliance of these orders within sixty (60) days of the date of this ruling.

11. A partial certificate of confirmation to issue.

12. Being a family case, there shall be no orders as to costs.

13. It is hereby so ordered.

***RULING DELIVERED VIRTUALLY, DATED AND SIGNED  
AT THIKA THIS 27<sup>TH</sup> DAY OF FEBRUARY 2026.***

**F. MUCHEMI**

# **JUDGE**