



In re Estate of Dr Wilfred Akhonya Mutubwa (Deceased) (Probate & Administration E151 of 2025) [2025] KEHC 1092 (KLR) (Family) (28 February 2025) (Ruling)

Neutral citation: [2025] KEHC 1092 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
PROBATE & ADMINISTRATION E151 OF 2025
H NAMISI, J
FEBRUARY 28, 2025
IN THE MATTER OF THE ESTATE OF DR. WILFRED AKHONYA MUTUBWA
(DECEASED)

IN THE MATTER OF
ANAMI JOY CLAUDIA PETITIONER

RULING

1. The Deceased herein, who was an Advocate, passed away on 26 November 2024 in Nairobi. He died intestate. The Petitioner has presented a Petition for Letters of Administration ad colligenda bona dated 21 February 2025 under section 67 of the *Law of Succession Act*. The same is presented in the Petitioner's capacity as the nominated manager/Administrator of the Deceased's law firm, Dr. Mutubwa Law Advocates, pursuant to Regulation 14 of the Law Society of Kenya (General) Regulations 2020.
2. The Petition is supported by an Affidavit sworn by the Petitioner, who is a practising Advocate. The Petitioner avers that prior to his demise, the Deceased operated a law firm in the name and style of Dr. Mutubwa Law Advocates, situated in Nairobi, which operated bank accounts at Sidian Bank, Equity Bank, ABSA Bank, Access Bank and Stanbic bank. The Deceased was the sole signatory to the accounts.
3. The Petitioner avers that it has now become urgent and necessary to access the said bank accounts in order to meet the daily running costs of the firm as well as offset outstanding utility bills and rent. She further avers that it is necessary to pay the various employees of the firm, who have not been paid since November 2024.
4. The Petitioner has attached documents in support of the Petition, including letter dated 25 February 2025 from the Assistant Chief, Upper Parklands sub-location, letter dated 29 November 2024 from the Law Society of Kenya confirming her nomination as manager of the law firm, Certificate of Death



and consent dated 21 February 2025 by Virginia Wanjiku Njoki, widow to the Deceased. The extent of the estate has not been established.

5. 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.

6. *In Re Estate of SMM (Deceased)* [2021] eKLR, the Court set out the circumstances under which a Special Limited Grant may be issued as follows:-

“Such Letters of Administration shall authorize the Applicant to do the following acts:

1. Carry out an Inspection and Audit of the firm to ascertain how many files/clients with matters pending are on the firm’s books;
2. Contact those clients and inform them that he will manage and run the firm until such time that it is appropriate to wind it up;
3. Access the Bank Accounts of the firm limited to Client Accounts and Office accounts as set out in the Application;
4. Pay salaries to existing employees of the firm that is those that were employed before the Deceased passed away;
5. Pay outstanding utility bill and overheads including rent and service charges.
6. Wind up the firm within a reasonable period.
7.”

7. I have considered the Application and attachments. In order to preserve the assets of the estate, the access granted to the Petitioner shall be limited to the named bank accounts, that is:

- i. Sidian Bank, Kakamega Branch, Account number 0106XXXXXXXXX2438;
- ii. Equity Bank, Mayfair Supreme Centre Branch, Account number 1510XXXXXXXXX1721;
- iii. ABSA Bank Ltd, Sari Branch, Account number 2048XXXXXXXX785
- iv. Access Bank, Westlands Woodvale Groove Branch, Account number 0210XXXXXXXX0061;
- v. Stanbic Bank, Upper Hill Branch, Account number 0100XXXXXXXX8829 (client account)



8. The said sums shall be used for purposes of paying rent, salaries, debtors and overheads costs, without the power of distribution of the Estate. The sums shall also be considered at the time of the confirmation of the Grant. The Petitioner will be required to present full accounts. Any further dealing with the estate of the Deceased must be with the authority of the Court or upon full grant of representation.
9. In summary, I invoke the powers vested in this court by Rule 73 of the Probate and Administration Rules and make the following orders:-
 - i. That Letters of Administration ad colligenda bona are hereby issued to the Petitioner only for purposes of accessing the funds in the following bank accounts:
 - a. Sidian Bank, Kakamega Branch, Account number 0106XXXXXXXXX2438;
 - b. Equity Bank, Mayfair Supreme Centre Branch, Account number 1510XXXXXXXXX1721;
 - c. ABSA Bank Ltd, Sari Branch, Account number 2048XXXXXXXXX785
 - d. Access Bank, Westlands Woodvale Groove Branch, Account number 0210XXXXXXXXX0061;
 - e. Stanbic Bank, Upper Hill Branch, Account number 0100XXXXXXXXX8829 (client account)
 - ii. Further, the Petitioner's authority will be limited to twelve (12) months and for the following:
 - a. To manage, handle and deal with all pending legal suits and any other legal briefs in the said firm of Dr. Mutubwa Law Advocates;
 - b. To remit to the clients any monies held on behalf of such clients in any client accounts of Dr. Mutubwa Law Advocates;
 - c. To issue Bills of Cost and collect any outstanding legal fees/costs due to the law firm and, if necessary, to lodge in court any such Bills of Costs for taxation and recovery in the name of Dr. Mutubwa Law Advocates;
 - d. To pay accrued and accruing staff salaries, office rent, utility bills, overheads and any other running costs in the firm of Dr. Mutubwa Law Advocates;
 - e. To account to the family of the Deceased and to this Court for any remaining profits; Such profits shall fall to the Deceased's estate;
 - f. To perform any other tasks or functions that may be necessary for the effective management, operation and winding up of the firm of Dr. Mutubwa Law Advocates
10. Costs will be borne by the estate.

DATED AND DELIVERED AT NAIROBI THIS 28 DAY OF FEBRUARY 2025.

HELENE R. NAMISI

JUDGE

Delivered on virtual platform in the presence of:

Ms. Naliaka h/b Okubasu.....for the Petitioner



Libertine AchiengCourt Assistant

