



**In re Estate of David Kariuki Koigi (Deceased) (Succession Cause E006 of 2025) [2025] KEHC 5380 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5380 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
SUCCESSION CAUSE E006 OF 2025**

**EM MURIITHI, J**

**APRIL 30, 2025**

**IN THE MATTER OF THE ESTATE OF DKK (DECEASED)**

**IN THE MATTER OF**

**CAROLINE WANJIRA KARIUKI ..... PETITIONER**

**RULING**

1. The Petitioner filed this petition date 17<sup>th</sup> February, 2025 for a grant of letters of administration ad colligenda bona of the estate of the above-named DKK (deceased) who died domiciled in Kenya on the 28<sup>th</sup> July 2024 limited for the purpose only of offsetting the loan she took to clear medical expenses for the deceased and payment of school fees for her three children until further representation be granted. She states as follows:
2. I present this petition in my capacity as a widow and by reason of the fact that owing to the special circumstances of the case the urgency of the matter as appears from the affidavit filed herewith is so great that it would not be possible for the Court to make a full grant to the person who is by law entitled thereto in sufficient time to meet the necessities of the deceased.
3. I will faithfully administer according to law all the estate which by law devolves upon and vests in the personal representative of the deceased and | will render a just and true account of such estate whenever required by law so to do and I will when required by this Court deliver up thereto the said grant.
4. The applicant, CWK deposed to a supporting affidavit, in which she avers that the deceased died on the 28<sup>th</sup> July 2024 at Matter Miserecoriae Hospital as appears from the attached certificate (photocopy of the certificate) of death marked “DKK”. He died intestate leaving behind CWK (widow), JKK (son), KNK (son) and DGK (son).
5. She avers that she is seeking a grant of representation to the deceased on grounds that she needs to access the money in Standard Chartered Bank Account and Co-operative Bank Account for purposes



of offsetting a loan she took at the Bank of Baroda for the deceased medical Bill and payment of her children's school fees at [Particulars Withheld].

6. She deposed to a further affidavit dated 18<sup>th</sup> March, 2025 and made the following averments:
7. She averred that the three minors are all school going children and urgently in need of school fees as follows for the year 2025:
8. JKK - [Particulars Withheld] - Kshs. 56,000 (school fees) + Kshs.50000 - out of pocket = Kshs. 106,000/
9. KNK - [Particulars Withheld] - Kshs. 62,910 per term x 3 = 188,730 (school fees) + Kshs. 50000 - out of pocket = Kshs. 233,000/
10. DCK - [Particulars Withheld]- Kshs. 46, 460 per term x 3 = 139,380 (school fees) + Kshs. 50000 - out of pocket = Kshs. 189,000/
11. The petitioner avers that her deceased husband passed on after a long illness and prior to his death he had accumulated a hospital bill at the Matter Hospital in Nairobi amounting to Kshs. 5,723,839/- She offset the bill through donations and a loan from Bank of Baroda.
12. Lastly, she believes that there are sufficient funds in the Cooperative Bank and Standard Chartered Bank accounts to assist with the urgent needs explained above pending the hearing and conclusion of these succession proceedings. That the aforementioned accounts are as follows:
  - a. Cooperative Bank of KenyaA/c No. XXXXXXXXXXXXXXXX
  - b. Cooperative Bank of KenyaA/c No. XXXXXXXXXXXXXXXX
  - c. Standard Chartered Bank - A/c No. XXXXXXXXXXXXXXXX

### Issue

13. Whether a Special Limited Grant should be issued.

### Analysis

14. The petitioner seeks for special limited grant of the deceased's estate, limited for the purpose of accessing the deceased's bank accounts at Cooperative Bank and Standard Chartered Bank to offset the loan she took to clear medical expenses for the deceased and payment of school fees for her three children.
15. The Ad colligenda petition is ex parte.
16. Sections 54, 67 (1) of the *law of Succession Act* Cap 160, Laws of Kenya and Rule 36 of the *Probate and Administration Rules* provide for the circumstances under which a Special Limited Grant may be issued by the court as follows:-
  54. Limited grants  
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. Notice of application for grant



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 for such grant, inviting objections thereto to be 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.

Rule 36. Grant ad colligenda bona under s.67 of the Act

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 of the deceased.

Every such grant shall be in Form 47 and be expressly limited for the purpose only of collecting and getting in a and receiving the estate and doing such acts as may be necessary for the preservation of the estate and until a further grant is made.”

17. The petitioner avers that her deceased husband had accumulated a hospital bill at the Matter Hospital in Nairobi amounting to Kshs. 5,723,839/- She offset the bill through donations and a loan from Bank of Baroda. The loans are outstanding and attracting interest.
18. Further, the deceased’s three minors are all school going children and urgently in need of school fees for the year 2025.
19. The Court is always mindful to avoid depletion of a deceased’s estate by, limited, ad colligenda grants and or special grants which allow the petitioner to operate the bank accounts of the Deceased or otherwise deal with other assets and movables of the Estate before hearing and making of the full Grant of representation. For instance, in the case of *In re Estate of SMM (Deceased)* [2021] eKLR, this Court said:

In order to preserve the assets of the estate for other beneficiaries, the access granted to the applicant shall be limited to one bank account and for the amount presently required for the school fees and maintenance of the minors only. This amount translates to Ksh.52400 made up of Ksh.17,800/- school fees for BK, Ksh. 14,600/- school fees for TK and Ksh.20000 (which the court finds to be reasonable maintenance for the two children). The applicant is at liberty to apply should the bank account balances fail to meet the stated amount.

20. Needless, as was held in the above case, in terms of section 42 (b) of the *Law of Succession Act*, the amount authorized to be withdrawn by the special limited grant shall be taken into account at the point of ascertaining the amount or share of the estate eventually distributed to the petitioner and her children.
21. Orders
22. Accordingly, for the reasons set out above, the Court will Grant the Petition for Letters of Administration Ad Colligenda Bona under section 67 of the *Act* limited as prayed for purposes only of offsetting the loan taken to clear medical expenses for the deceased and payment of school fees for the petitioner’s three children until full grant of representation is made.
23. The special Grant shall only authorize the Petitioner to operate the two Bank Accounts named as follows:
  1. Cooperative Bank of Kenya – A/C No. XXXXXXXXXXXXXXX



2. Cooperative Bank of Kenya – A/C No. XXXXXXXXXXXXXXXX
24. The petitioner shall within six (6) months render and file in Court a full and accurate account of her dealings with the Estate of the deceased pursuant to the special Grant made herein.
25. Liberty to apply.
26. The Petition for the full Grant of Letters of Administration herein dated 17/2/2025 shall be progressed to the making of Grant in the usual way.
27. There shall be no order as to costs.

Order accordingly

**DATED AND DELIVERED THIS 30<sup>TH</sup> DAY OF APRIL 2025.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances:

Mr. Onyango for the Petitioner/Applicant.

