

**IN THE HIGH COURT OF TANZANIA  
AT DAR ES SALAAM**

**MISC.CIVIL.APPLICATION NO. 54 OF 2005**

**JUNDU RAMADHANI.....APPLICANT**

**VERSUS**

**ZAINABU HUSSEIN & ANOTHER.....RESPONDENTS**

**RULING**

**MANDIA, J**

The late KIANGO JUMA died intestate on 7/1/2000 aged 62 years, leaving behind five children namely SABURI STANLEY, MAJID MRISHO, ABEDI MRISHO, HAMISI MRISHO and SHABANI MRISHO. The family of the late KIANGO JUMA met and instructed ZAINABU HUSSEIN to apply for Letters of Administration in respect of the estate of the Late KIANGO JUMA . Zainabu hussein APPLIED FOR AND WAS GRANTED Letters of Administration in Mirathi Namba 57/2000 in Magomeni Primary Court.

Amongst the properties left behind by the Late KIANGO JUMA was a house situated on Plot No. 282 Block 40 Wibu Street in Kinondoni District. This house originally belonged to the mother of KIANGO JUMA called SAADA ZAIDI MSWENDE who died in 1993. After the death of

SAADA ZAIDI MSWENDE in 1993 her daughter KIANO JUMA applied for and was granted letters of Administration in respect of the house situated on Plot 282 Block 40 Wibu Street, Kinondoni which was the sole property SAADA ZAIDI MSWENDE left behind. KIANO JUMA was the only child the late SAADA ZAIDI MSWENDE left behind so she inherited the house, and kept it until 7/1/2000 when she in turn died. The proceedings which KIANO JUMA filed in Kinondoni Primary court were Mirathi Number 218 of 1993. It was after the death of KIANO JUMA that ZAINABU HUSSEIN who was a niece, filed Mirathi Number 57 of 2000.

Four years after ZAINABU HUSSEIN's appointment as administrator in the estate of the Late KIANO JUMA, one JUNDU RAMADHANI filed Mirathi Namba 91 of 2004 in the same Primary Court which had four years earlier granted letters of administration to ZAINABU HUSSEIN . Jundu Ramadhani purported to be the heir to SAADA ZAIDI MSWENDE who had died in 1993, eleven years earlier. The subject matter of Jundu Ramadhani's application is the house situated on Plot 282 Block 40 wibu Street. The Primary Court of Kinondoni found that Jundu Ramadhani's application related to the same estate which had been dealt with in 1993. The court dismissed Jundu Ramadhani's

application. The entry made by the Primary Court reads thus-:

"25.5.2004

Baada ya kuangalia lalamiko lililotolewa na mpingaji na kutafuta jalada la Mirathi Na. 218/1993 na kupatikana inaonyesha kuwa kweli mirathi hiyo ilifunguliwa na uamuzi kutolewa, kwa hiyo Mahakama kwa pamoja mirathi imefungwa haitaendelea.

Jundu Ramadhani was not satisfied with the order made by the Primary Court so he filed an application for revision in the District Court. The District Court dismissed his application. He filed a second appeal to this court.

The proceedings of Mirathi Namba 218/1993 and 57/2000 show that the original owner of the house situated on Plot 282 Block 40 Wibu Street was SAADA ZAIDI MSWENDE who, on her death, left the house as an inheritance to her only daughter KIANGO JUMA. When Kiango Juma died in 2000 her niece administered the house on behalf of five children left behind by KIANGO JUMA.

Present applicant came into the picture eleven years after the death of the original owner, in between which two proceedings had been filed in respect of the property i.e Mirathi Na. 218/93 and 57/2000 respectively. The records show that in respect of Mirathi Namba 218/1993 and 57/2000 the applications were filed properly, and showed who the surviving heirs were and what relationship applicant had with the deceased. The application by Jundu Ramadhani is different. It only shows him as the applicant but is blank in the place where the applicant is required to indicate his relationship with the deceased. The application does not show who the surviving relatives are. In the place where the applicant is required to describe the estate he filled in "NYUMBA" without showing where the house is situated, plot number or Block number. The application is also not dated.

No wonder the application was peremptorily dismissed. Jundu Ramadhani is shown to be an impostor who has no relationship with the deceased but who wanted to use the court to gain a say in the property owned by the Late SAADA ZAIDI MSWENDE. The proceedings show that he gained entry into the house forcefully and had to be evicted after an application was made to the trial court to that effect. The court was right in granting the eviction order against Jundu

Ramadhani. His application to this court has no merit and is hereby dismissed with costs.

Dated this 9<sup>th</sup> November, 2005.

**W.S. MANDIA**  
**JUDGE**

2/12/2006

Coram: W.S. Mandia, J

For the Applicant – In Person

For the 1<sup>st</sup> Respondent – Absent

For the 2<sup>nd</sup> Respondent – In person

For 3<sup>rd</sup> Respondent – In person

**Court:** Judgment pronounced in the presence of the parties.



**W.S. MANDIA**  
**JUDGE**  
**2/12/2005**