

**IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

PROBATE & ADMINISTRATION CAUSE NO. 69 OF 2017

IN THE MATTER OF THE ADMINISTRATOR GENERAL'S ACT, [CAP. 27 R.E. 2002]

AND

THE PROBATE AND ADMINISTRATION OF ESTATES ACT [CAP. 352 R.E.2002]

AND

**IN THE MATTER OF THE ESTATE OF THE LATE JUSTICE DONASIAN MARWA
MWITA**

AND

**IN THE MATTER OF APPLICATION OF PROBATE BY THE ADMINISTRATOR
GENERAL**

RULING:

The petitioner, the Administrator General filed in this court the petition seeking to be granted Probate of the estate of the late Justice Donasian Marwa Mwita who died at Muhimbili National Hospital on 24/8/2017. The petition is made under section 55(1) of the Probate and Administration of Estate Act. Cap 352 R. E. 2002 and Rule 33(1) of the Probate Rules.

During the hearing of the petition the petitioner was represented by Mr. Joseph Kitahinda, learned Senior State Attorney from the office

of the Attorney General. The learned Senior State Attorney told the court that, before the deceased died he left his will which was kept in the Registry of this court under Rule 114 of the Probate Rules and fees for deposit of the said will was paid in court pursuant to the Exchequer receipt with number 46588452 dated 18/4/2012.

He said that as per the said will the deceased appointed the Administrator General as an executor of the will and directed that, he wanted his child namely Erick Mwita who is a minor to be under the Public Trustee of P. O. Box 9183, Dar es salaam which is an office within the office of the Administrator General.

The learned senior State Attorney told the court that, they have published the citation of this matter in Habari Leo News Paper and Daily News Paper both of 31/1/2018 and to date there is no any caveat or objection which has been filed in this court to object the petitioner to be granted Probate for execution of the will of the deceased. He tendered to the court the copies of the mentioned News Paper together with the original copy of the death certificate of the deceased and prayed the probate to be granted.

After considering the above submission of the learned Senior State Attorney the court has heard the view of Severina Bonifasi Wambura who is the mother of the son of the deceased namely Erick Donasian

Mwita and the son of the deceased namely Michael Donasian Mwita and found they have no objection to the petitioner to be granted Probate of the estate of the deceased.

Upon coming to the above observation the court has gone through the petition filed in this court by the Administrator General together with the last will attached to the Petition and produced before this court by the learned Senior State Attorney who represented the Petitioner in this matter and come to the settled finding that, there is no any justifiable reason which can make this court to refuse to grant the petitioner who is the Administrator General Probate of the estate of the late Justice Donasian Marwa Mwita as sought in the petition.

In the premises the petitioner, the Administrator General is hereby granted probate of the estate of the deceased and is appointed to be the executor of the last will of the deceased dated 18th day of April, 2012.

It is so ordered.

Dated at Dar es salaam this 10th day of April, 2018.


I. Arufani, J.

10/4/2018

COURT: This ruling read and delivered today 10th day of April, 2018 in the presence of Mr. Joseph Kitahinda, learned Senior State Attorney for the petitioner.


I. Arufani, J.

10/4/2018