

IN THE HIGH COURT OF TANZANIA

DAR ES SALAAM DISTRICT REGISTRY

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 388 OF 2017

(Arising from probate Casus No. 22 of 2017)

IN THE MATTER OF THE ESTATE OF THE LATE: LAZARO NOAH

DANIEL

AND

IN THE MATTER OF APPLICATION FOR EXTENSION OF TIME TO

FILE INVENTORY BY KEDMONI NOAH DANIEL

RULING

HON. B.R. MUTUNGI, J

Miss Agness Ndanzi learned counsel representing the applicant in support of this application averred in court that, the applicant had been appointed the executor of the estate of the late LAZARO NOAH DANIEL way back on 9th /08/2016. Following the said appointment he went out to execute the will left behind by the deceased.

He managed to indenting the proper ties mentioned in the deceased's will. These included a houses situate at Keko and Goba which were accordingly distributed according to the deceased's last will.

The learned counsel proceeded to explain that, the applicant did face some challenges in due execution of the will in that, he was most of the time not available. Being a driver employed by TANROADS, had to implement some of his employer's projects in Masasi and Ruvuma regions. Due to the busy working schedule he could not find time to follow up on the deceased's Bank accounts in the CRDB Bank. As of now he has already managed to execute the accounts and distributed the money to all the beneficiaries. This whole process has taken a lot of time as a result the applicant has found himself out of the prescribed time to file the inventory as provided for in law in order to exhibit what he had done.

To cement the foregoing submission, the learned counsel prayed the corresponding Affidavit dully sworn by the applicant be adopted to form part of her submission. The same is attached with the ruling granting the applicant powers of execution, the deceased's last will and a letter from this court addressed to the CRDB Bank.

In view of the foregoing, the learned counsel prayed the court grants the applicant the following:-

- (1) That the honourable court be pleased to grant leave for the Applicant to file an inventory out of the scheduled time concerning the estate of the late LAZARO NOAH DANIEL who passed away on 17th January 2017.
- (2) That the honorable court be pleased to grant any other order it may deem just in the circumstances of the application.

The above prayers are made order Rule 14 (1) (2) of the Probate Rules, Section 8 (a) of the Probate and Administration of Estates Act Cap 352 RE: 2002 Section 14 (1) of the law of limitation Act Cap 89 RE: 2002 and section 95 of the Civil Procedure Code Cap 33 RE: 2002.

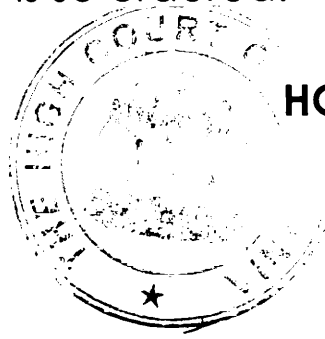
Having considered the above, it is the dictates of law under the Probate and Administration Act Cap 352 specifically section 107 (1) that,

"An executor of administration shall within six months from the grant of the probate or letters of administration or within such further time as the court which granted the probate or letters may time to time

appeal or require, exhibit in that court an inventory containing a full and true estimate of all the property in possession and all the credits owned by any person to which executor or administrator is entitled in that character.....”.

In the same vein, the executor in this probate was supposed within six months from 09/08/2016 to have filed with the court an inventory (to February, 2017). In that regard by the time the applicant was filling the application on 12/7/2017, it was already out of time by six months. Since the applicant has now prayed for an extension, all that the court is to look for are the reasons advanced by the applicant. As per the counsel's submission and the averments deposed by the Applicant in the corresponding Affidavit, the reasons advanced demonstrate that indeed the applicant had faced challenges beyond his will and control. The court is satisfied that these are sufficient and the applicant accordingly granted that which he has asked for. The applicant is granted an extension of six months from the date of this ruling to file an inventory with the court.

It is so ordered.

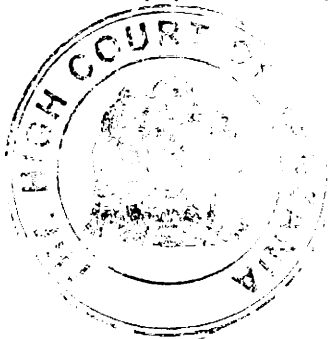



HON. B. R. MUTUNGI, J

JUDGE

02/05/2018

Right of Appeal Explained.

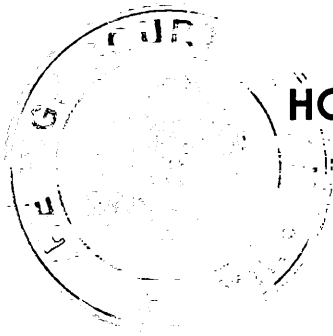



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Read this day before Agness Ndanzi (the applicant's counsel).




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