

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

MISC. LAND APPLICATION NO. 441 OF 2018

**IN THE MATTER OF THE ESTATES OF THE LATE PETER
KISUMO**

AND

**IN THE MATTER OF AN APPLICATION FOR REVOCATION
OF LETTERS OF ADMINISTRATION BY SALUM PETER
KISUMO**

Date of last order: 7/8/2019

Date of Ruling: 11/10/2019

R U L I N G

MGONYA, J.

The Applicant herein made this Application under **Section 49(1) (a), (b), (c) of the Probate and Administration of Estates Act, Cap. 352 [R. E. 2002] and Rule 29 (1) (2) made therein** for orders that:

1. That this Hon. Court be pleased to revoke for the grant of Probate to one Sam Mapande and Daniel Mchangila;

2. That this Hon. Court be pleased to appoint Salum Perter Kisumo to be the Administrator of the estate of the Late Peter Kisumo;
3. That this Hon. Court be pleased to order for any other relief which it may deem fit and just to grant;
4. Costs of the matter to follow event;

The Application was ordered to be disposed by way of written submissions. However, going through the records of this matter, I have failed to find the Applicant's written submission hence absence of the Respondent's submission in respect of replying the Application at hand.

From the same, I can say that the Applicant's failure to file his written submission as ordered by this honorable court is a serious noncompliance. I am mindful with the trite law that if the parties are to act in total disregard to the court orders, then court business will be rendered uncertain and that will not be good for the efficient administration of justice. Therefore disobedience of an order of court naturally draws sanctions.

In a similar way in the case of ***TANZANIA HARBOURS AUTHORITY VS. MOHAMED R. MOHAMED (2002) TLR 76*** the court held:

"The court is duty bound to make sure that the rules of court are observed strictly and cannot aid any party who deliberately commits lapses".

There is no doubt at all that the written submissions in support and against the present Application were to be filed in accordance to the court order dated 7th August 2019. However, that as not the case and further to that, there was no any Application from the Applicant at any particular time before the Ruling date seeking for enlargement of time in respect of filing his written submission. The Applicant failure, made too the Respondent's failure to file their respective reply to the Application. Hence nothing to rule in respect of the Application at hand.

I am flourishing with the principle that a party who fails to file submission as duly ordered, the same will be **likened** to that party's failure to appear or to prosecute their case.

I comprehend to celebrate the decision of my learned brother Massati, J. in the case of ***P3525 LT COL. IDAHYA MAGANGA GREGORY Versus THE JUDGE ADVOCATE GENERAL COURT MARTIAL CRIMINAL Appeal No. 4 of 2002*** where it was held:

"Court orders are binding and are meant to be implemented. They must be obeyed, if such orders are disrespected the system of justice will be rendered useless and it will create chaotic that everyone will decide to do anything that is convenient to him."

It is indeed my view that the court orders like the one was issued on 7th August 2019, are meant to command parties to act within a time frame fixed by the court. If the parties are to act in total disregard to those orders then court business will be rendered uncertain and that will not be good for the efficient administration of justice.

In the case of ***TANZANIA HARBOURS AUTHORITY VS. MOHAMED R. MOHAMED (2002) TLR 76*** the court had this to comment:

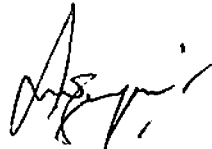
"The court is duty bound to make sure that rules of court are observed strictly and cannot aid any party who deliberately commits lapses".

Now in the absence of any explanation from the Applicant for the failure of filing the Written Submission in support of his Application, I find that the Applicant has failed to prosecute his

Application as ordered by this honorable court hence deserves the sanction as the court of law should always control proceedings. To allow such an act or behavior shown by Appellant is to create a bad precedent and in turn invites chaos.

For the above single reason, the **present Application is hereby dismissed with costs for want of prosecution.**

It is so ordered.



L. E. MGONYA

JUDGE

11/10/2019

COURT: Ruling delivered in the presence of the Applicant in person, Ms. Mary Machira Advocate for Respondent and Ms. Emma RMA in my chamber today 11th day of October, 2019.



L. E. MGONYA

JUDGE

11/10/2019