

**IN THE HIGH COURT OF THE UNITED REPUBLIC TANZANIA**

**(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**MISC CIVIL APPLICATION 590 OF 2019**

(Originated from Probate and Administration Cause No. 68 of 2010)

**PROBATE AND ADMINISTRATION OF THE LATE JOSEPHAT AND  
KIRIWAGGULU.....DECEASED**

**AND**

**IN THE MATTER OF AN APPLICATION FOR REMOVAL OR  
ADMINISTRATOR (REHEMA MPNGI BINAMUNGU) UPON HER DEATH**

**BY**

**IRENE NNAKAYUNGU KIRIWAGGULU and IRWIN REUS  
BINAMUNGU.....APPLICANTS**

**09/06/2020**

Coram: Hon. Ebrahim, J.

For the Applicants - Advocate Sarah Kironde

CC: Neema

**Advocate Kironde:** On 21/02/2020 you ordered that we publish the application and we accordingly did so at Mwananchi and Daily News on 11/03/2020 so far we have not been furnished with any caveat or objection filed in court. We therefore pray that Rehema

Binamungu be removed and instead irene and Irwin Reus Binamungu replace her. We adopt our affidavit.

**Sgd: R. A. Ebrahim**

**JUDGE**

**09/06/2020**

**RULING**

The applicants Irene Nnakayunga Kiriwaggulu together with Irwin Reus Binamungu (Children of the late Rehema Mpungi Binamungu) have made an application in this court seeking for the orders that:-

1. The grant of letters of Administation to Rehema Mpungi Bimamungu be removed as it has become useless and inoperative.
2. That, the court to grant letters of administration to IRENE NNAKAYUNGA KIRIWAGGULU and IRWIN REUS BINAMUNGU.

The application has been brought under **SECTION 46 AND 49(D) OF THE PROBATE AND ADMINISTRATION ACT, CAP 352, R. E. 2002** and it is supported by a joint affidavit of Irene Nnakayunga Kiriwaggulu AND Irwin Reus Binamungu, the applicants.

Accordng to the applicants averments in their affidavit, the late Rehema Mpungi Binamungu (Annexure JAK 3 Certified copy of Death Certificate) was on 18<sup>th</sup> March 2011 issued with letters of Administration of the Estate of the late Josephat Andy Kiriwaggulu

(her husband) vide Administration Cause No. 68/2010. However, as fate would have it before the late Rehema Binamungu could finalize to administer the estate of her late husband she was also called to her maker leaving a number of movable and immovable assets as outlined at para 5 of the affidavit undistributed to the rightful heirs.

Following such unfortunate event, the applicants have filed the instant application for the purpose of completing the part of the estate of the late Josephat Andy Kiriwaggulu not fully administered by the late Rehema Mpungi Binamungu.

The applicants are represented by Ms. Sarah Kironde, learned advocate.

On 21/02/2020 when they appeared before me, I ordered the applicants to make publication via two widely circulated newspapers so as to give room to any interested party to join the wagon or register their objection thereof. The applicants published the application on 11/03/2020 in both Mwananchi and Daily News newspapers. Up to the time when this matter was called for hearing today, there is neither Caveat nor any objection filed in court. In view of that Ms. Kironde prayed for the late Rehema Binamungu to be removed and instead letters of administration be granted to the applicants.

Indeed **Section 46 of Cap. 352** provides for the issuance of letters of administration in respect of the part of the Estate not fully administered following the death of the sole administrator.

Again under **Section 49 (d) of Cap. 352** the court can annul or revoke the letters of administration if the grant has become useless and in operative.

In our instant case, the late Rehema Binamungu passed on before she could finalize to administer the estate of her husband. As such the letters granted to her have become in operative. Consequently and considering the fact that there is no any caveat or objection filed or that the court is aware of; I accordingly revoke the letters of administration issued to the late REHEMA MPUNGI BINAMUNGU in respect of the late Josephat Andy Kiriwaggulu as they have become useless and in operative following the death of the sole administrator.

Further, I jointly grant letters of administration in terms of **S. 46 of Cap. 352** to IRENE NNAKAYUNGU KIRIWAGGULU and IRWIN REUS BINAMUNGU to administer the remaining part of the estate of the late Josephat Andy Kiriwaggulu in accordance to the laws and set rules and procedures. The applicants are further ordered to file inventory in this court within six (6) months from today and accounts within one year. Being probate matter, I give no order as to costs.



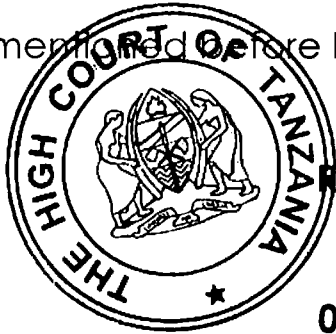
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Sg. R. A. Ebrahim

JUDGE

08/06/2020

**Court:** To ensure compliance and ascertain status this matter shall be mentioned before Deputy Registrar on 10/12/2020.



A handwritten signature in cursive script, appearing to read "R. A. Ebrahim".

R. A. Ebrahim

JUDGE

09/06/2020