

**IN THE HIGH COURT OF TANZANIA  
(IN THE DISTRICT REGISTRY)  
AT MWANZA  
PROBATE AND ADMINISTRATION CAUSE NO. 5 OF 2019  
IN THE MATTER OF THE ESTATE OF THE LATE HOSEA ELIKANA  
MASHIMBA, DECEASED  
AND  
IN THE MATTER OF APPLICATION FOR LETTERS OF  
ADMINISTRATION OF THE ESTATE  
BY RESITUTA EPAINETO SAMSON NG'WANANOGU  
BETWEEN**

**HOSEA ELIKANA MASHIMBA ..... DECEASED  
AND  
RESTITUTA EPAINETO SAMSON NG'WANANOGU ..... APPLICANT**

**JUDGMENT**

*Last Order: 24.02.2020*

*Judgment date: 24.02.2020*

**A.Z MGEYEKWA, J**

The Applicant herein, on the 9<sup>th</sup> day of September, 2019 filed a Probate and Administration Cause No.5 of 2019 in relation to the Estate of

the late Hosea Elikana Mashimba who passed away on 10<sup>th</sup> day of August, 2019. The application was brought under section 56 of the Probate and Administration of Estates Act, Cap.352 [R.E 2002]. The application was accompanied by an affidavit sworn by Restituta Ephaineto Samson Ng'wananogu.

At the hearing of this application Mr. Daniel, learned counsel represented the petitioner. The learned counsel sought for adoption of what is contained in the amended petition. He informed the court that the petition of probate is complied with the law; the probate was advertised through *Mwananchi* Newspaper dated 28<sup>th</sup> November, 2019 and to-date there is no objection is raised. Therefore Mr. Daniel prayed for grant of this application.

It is in record that the petitioner once applied for *pendete lite* which was brought under section 38 of Probate and Administration of Estates Act, Cap.352 [R.E 2002] vide Misc. Appeal No. 134 of 2019 pending the determination of this application. During the said period neither complaints nor objection was filed to this Court to revoke her administration.

According to the petition, the deceased person has left eight (8) persons surviving him, these are as follows; Restitute Epaineto (widow), Anna Hosea Elikana Mashimba (deceased's daughter), Elikana Hosea Elikana Mashimba (deceased's son), Octavia Hosea Elikana Mashimba (deceased's daughter), Leah Hosea Elikana Mashimba (deceased's daughter), Martha Hosea Elikana Mashimba (deceased's daughter), Elizabeth Hosea Elikana Mashimba (deceased's daughter), and Ombeni Hosea Elikana Mashimba (deceased's daughter).

The deceased estate subject of sought grant of letters of administration includes immovable properties namely; Residential House, Office and Store Plot No.102 Block 'B' Nera, Mwanza City, Residential House Plot No.44 Block 'FF' Nyakato, Ilemela Municipality, Residential House Plot No. 375 Block 'L' Nyakato, Mwanza City.

The estate further includes, movable properties which as enlisted in the petition as follows; Scania 113 Semi Trailer Reg No. T 988 ANQ, Scania Semi Trailer Reg No. T 988 Semi Trailer Reg No. T 877 BKA, Scania 124 Semi Trailer Reg No. T 804 CBC, Scania Trailer Reg No. T 211 AMY, Mistubishi Canter, Reg No. T643 BTG, Toyota Rav 4 Reg. No. T 781 BDS,

MV LUXURY I TMZ 011008, MV LUXURY II MZ/P 044, Personal belongings and Household items.

Moreover, the amended petition discloses the following accounts to be part of the deceased's estate; Bank Account CRDB BANK, ACCOUNT NUMBER 01J1053993600 NAME HOSEA ELIKANA MASHIMBA.

In accordance to Rule 65 and 66 of the Rules, the petitioner, the resident of Nera area within Mwanza City solemnly took oath to the effect that they will smoothly and faithfully administer the estate of the deceased if she will be granted letter of administration by first paying just debts and subsequently distribute the residues of the estate according to the law and that they will exhibit full and true inventory within six month period from the date of appointment or in a further period as the court may think fit and just to extend.

I have gone through the application and found that, the petitioner has duly complied with the requirement of the law. Upon receipt of the News Paper Publication *Mwananchi* of dated 28<sup>th</sup> day of November, 2019, and that the clan meeting was convened on 22<sup>th</sup> day of June the same is evident by the attached Minutes of the Meeting to appoint administrators

of Estate of the late Hosea Elikana Mashimba who passed away on 10<sup>th</sup> day of August, 2019. Members appointed Restituta Epaineto Samson Ng'wananogu, the deceased wife to administer the Estate of the late Hosea Elikana Mashimba.

Having considered the petition, affidavit and related matters aforementioned thereof, I am of the considered opinion that since this petition has been filed after mutual agreement of the interested heirs as well as relatives and since there is no caveat nor objection from any one related with this Application which is pending in the court, I hereby under section 33 of Probate and Administration of Estates Act, Cap.352 grant the application as prayed. I grant the letters of Administration of the Estate of the late **HOSEA ELIKANA MASHIMBA** to **RESTITUTA EPAINETO SAMSON NG'WANANOGU** on this 24<sup>th</sup> day of February, 2020 in accordance with the Law. The said **RESTITUTA EPAINETO SAMSON NG'WANANOGU** should abide with the general duties of administration under section 108 of Probate and Administration of Estates Act, Cap.352 and file before the Court an inventory and final accounts of the deceased Estate in compliance with section 107 of the Probate and Administration of Estates Act, Cap.352 [R.E 2002].

The appointed administrator is now ordered to respect her oath and act in accordance with the law in administering the estate of late **HOSEA ELIKANA MASHIMBA** by collecting the deceased's properties, debts, paying ascertaining debts and distribute the residues of the estate to the heirs/ beneficiaries of the deceased. In any event of fraud or misappropriation of the deceased's estate, the administrator so appointed may be personally held liable or her sureties be it in criminal or civil proceedings or both.

The petitioner is now directed to file an inventory within six (6) months from the date of this Order and in the event the administration of estate is not accomplish within six months the administrator has to formally seek an extension of time for administration of estate to this court.

Dated at Mwanza this date 24<sup>th</sup> day of February, 2020.

  
A.Z.MGEYEKWA  
**JUDGE**  
24.02.2020

Judgment delivered on 24<sup>th</sup> day of February, 2020 in the presence of Mr. Daniel, learned counsel for the applicant.



  
A.Z.MGEYEKWA

**JUDGE**

24.02.2020