

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

**AT DAR ES SALAAM**

**CIVIL APPEAL NO 232 OF 2019**

*(Appeal from the ruling of the District Court of Kinondoni at Kinondoni in Probate and Administration Cause matter No. 42 of 2012, by Kasailo, Honorable Resident Magistrate, delivered on 06<sup>th</sup> September, 2012 and pursuant to order of the Court in Ruling dated 3<sup>rd</sup> October, 2019 by Honorable Mtungi, J)*

**BETWEEN**

**CAROLINE MWENDA.....APPELLANT**

**VERSUS**

**ERIC MWENDA.....1<sup>ST</sup> RESPONDENT**

**DORAH MWENDA.....2<sup>ND</sup> RESPONDENT**

**RULING OF THE COURT**

**Date of last Order:** 25/03/2020

**Date of Ruling:** 25/03/2020

**MLYAMBINA, J.**

The appellant has lodged this appeal challenging the decision of the District Court of Kinondoni at Kinondoni in Probate and Administration Cause No. 42 of 2012. Among other grounds of appeal is the jurisdiction of the District Court to determine the matter.

On 25<sup>th</sup> day of March, 2020, when the matter came for necessary orders, learned Counsel Erick Aggrey Mwanri conceded with the appeal on the reason that the value of the estate is above the


pecuniary jurisdiction of the District Court. The Counsel, however, prayed the costs be waived. Learned Counsel Elisa Mdeme for the appellant had no issue on waiving costs.

I have had time to go through the copy of inventory filed in the trial Court on 31/1/2019. I noted true the estimated value of the estate is over and above TZS 2 Billion. This Court in this registry in the case of *Caroline Mwenda v. Dorah Mwenda and Erick Mwenda, Misc. Civil Application No. 336 of 2019(unreported)* quoted with approval the decision of the same Court in the case of *Ashura M. Masoud v. Salma Ahamad, Civil Application No. 213 of 2004* in which the Court stated:

...The jurisdiction of the District Court as such in probate and administration matter, is governed by the provision of Section 6 Cap 352 R.E. 2002. Under that Section District Courts have only jurisdiction in respect of "small estate" defined under Section 2 (1) of Cap 352, are those whose value does not exceed Tshs. 10,000/= (ten thousand).

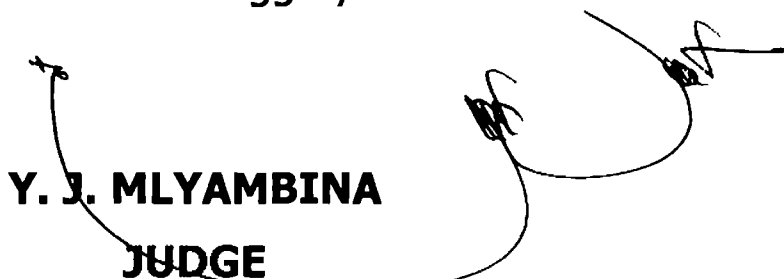
In the premises of the above, this appeal is marked granted. The Proceedings, Ruling and Orders of the District Court for Kinondoni at Kinondoni in respect of Probate Cause No. 42 of 2012 are

quashed and set aside for lack of pecuniary jurisdiction. Costs be shared.



**Y. J. MLYAMBINA**  
**JUDGE**  
**25/03/2020**

Ruling dated and delivered this 25<sup>th</sup> day of March, 2020 in the presence of Counsel Elisa Mdeme for the appellant and in the presence of learned Counsel Erick Aggrey Mwanri.



**Y. J. MLYAMBINA**  
**JUDGE**  
**25/03/2020**