

**IN THE HIGH COURT OF TANZANIA**

**IN THE DISTRICT REGISTRY**

**AT MWANZA**

**MISC. CIVIL APPLICATION NO. 06 OF 2020**

*(Arising from Misc. Civil Application No. 131/2019 and originating from Probate and Administration Cause No. 08 of 2018)*

- 1. SEKWA SAMBO (Administrator of Estate  
of the late JOSIAH METHUSELA MZURI ..... APPLICANT**
- 2. MWAMVUA ABDUL RAMADHAN (As administratrix  
Of the Estate of the late JOSIAH METHUSELA MZURI..... APPLICANT**

**VERSUS**

- 1. METHUSELA JOSIAH MZURI  
(as Administrator of the Estate of  
the late JOSIAH METHUSELA MZURI.....RESPONDENT**
- 2. WISTON JOSIAH MZURI  
(As Administrato of the Estate of  
the late JOSIAH METHUSELA MZURI..... RESPONDENT**

**RULING**

**TIGANGA, J.**

In this application, the applicants who are Administrator and Administratrix of the estate of the late Josiah Methusela Mzuri moved this court to revoke the appointment of the respondents who are also the co - administrators of

the estate of the same deceased, they also asked any other relief as the court may deem fit and proper to grant.

Both the applicants and respondents were appointed administrators in Probate and Administration Cause No. 08 of 2018 by my brother Hon. M. R. Gwae, J, on 05/03/2019. It seems from the records, that their sitting in that office of the administrator has never been smooth as they have never been in agreement in most of the issues pertaining their office. That precipitated and led the filing of Misc. Civil Application No. 131 of 2019, in which Sekwa Sambo, Sami Josiah and Mwamvua Abdul Ramadhani were the applicants while Methusela Josiah Mzuri and Wiston Josiah Mzuri were the respondents. The orders sought in that application were as follows:

- (i) Revocation of the appointment of the respondents as administrators of the Estate, or in the alternative;
- (ii) Suspension of appointment of the respondents pending undertaking to assist the estate and cooperate with the other administrators and actually furnishing required information and fully accounting for the proceeds received prior to appointment of administrators.

That application was heard to its finality by my brother, Hon. Ismail, J. At the end of that application, my brother Hon. Ismail, J, found that there was no compelling case made to convince him to allow the application, instead, he ordered the respondents to assert their role and continue together with the applicants to consistently perform their duties as required by law.



Over and above that finding, he gave the following orders:-

- (a) That the administrators were required within seven days from the date thereof to agree on the running of the affairs of the company and provide regular report of the affairs of the company.
- (b) The Administrators were within 14 days from the date thereof to appoint auditor who will carry out an audit of the affairs of the company from the date of the deceased demise and prepare the balance sheet which will inform on the income and expenditure and determine if profits were made and if dividends ought to be paid out to shareholders and the estate. If payable the same to be declared and paid into the estate immediately. The Audited Financial statement be prepared and tabled to administrators.
- (c) The Administrators were ordered to collect assets, payout creditors and tributes among the beneficiaries, this includes taking steps to recover all the monies paid out irregularly to or mis appropriated by third parties and beneficiaries and transfer the deceased's interest and shares in the company to beneficiaries consistent with the constitution of the company and laws governing company matters.
- (d) The Administrators were required within 90 days from the date thereof prepare and exhibit inventory giving out an

account of the Estate from the date they were appointed and the same should be submitted to the court.

- (e) If any of the Administrators impedes stifle or disobeys these orders, the matter be immediately brought to the attention of this court for necessary steps, including but not limited, to citing them for contempt and similar other penal actions.
- (f) If there were beneficiaries who have special needs such as school fees and other up keeps, the same be borne out of the estate and be accounted for in the Account of the estate.

It seems these orders were once again not wholly complied with, that is the reason for this application. When this application was filed, the same was contested by the respondents by filing the counter affidavit, and it was for that reason I fixed it for hearing.

However on 10<sup>th</sup> day of August, 2020 when this application was called for hearing, in the presence of the applicants, Mr. Emmanuel John Advocate appeared representing the applicants, informed the court that he was ready for hearing. Mr. Kipeja who was representing the respondents asked the court in the presence of the respondents, to allow the application but he asked further that parties have apparently failed to administer the estate together due to the misunderstanding between or among the administrators. He asked the court to appoint the Administrator General to administer this estate as a neutral party. That was also conceded by Mr.



Emmanuel John and his client by saying that, that is what they were looking for.

Having heard from both counsel, I asked the parties personally who also agreed to the proposition made by their counsel, and recorded their response for the purpose of keeping records. I reserved the matter for my decision today. Now having recited all difficulties the administrators have been encountering in working together, and the previous proceedings especially in Misc. Civil Application No. 131/2019, it is incumbently clear that this matter needs a neutral party to administer the estate in the interest of justice and the beneficiaries.

Since the contending parties have agreed through their advocates, and personally agreed that the Administrator General be appointed for the apparent reasons stipulated herein above. The appointment of the Administrators of the estate of the late **Josiah Methusela Mzuri**, made in Probate and Administration Cause No. 08 of 2018 is hereby revoked, in their place, Administrator General is appointed in terms of section 5 of the Administrator General (Powers and Functions) Act (Cap 27 RE 2019), to collect, administer, pay creditors, and pay beneficiaries as required by law. This is notwithstanding the unexecuted orders issued by Hon. Ismail, J in Misc. Civil Application No. 131/2019.

It is so ordered.

DATED at MWANZA this 14<sup>th</sup> day of August, 2020



**J. C. TIGANGA**  
**JUDGE**  
**14/08/2020**

Ruling delivered in open chambers in the presence of the advocates for the parties and their respective parties in person as per coram.



**J. C. TIGANGA**  
**JUDGE**  
**14/08/2020**