

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

**MISC. CIVIL APPLICATION NO. 395 OF 2019**

**IN THE MATTER OF THE ESTATE OF THE LATE JUMA HAMISI KILLAH  
AND  
IN THE APPLICATION FOR LETTERS OF ADMINISTRATION  
BY**

**SALIM HAMIS KILLAH .....APPLICANT**  
(Arising from Probate & Administration Cause No 59 of 2005)

**RULING**

**MASABO, J.**

In this application, SALIM HAMIS KILLAH is applying for letters of administration of the estate of the late JUMA HAMISI KILLAH (the deceased) who died interstate on 8/3/1999. The Application is sought in substitution of former administrator of the estate one **Juma Hamis Killah** who died 12/5/2011. The Application was brought under section 49 of the Probate and Administration of Estate Act, Cap. 352 RE 2002 and rule 29 of the Probate Rules, 1963.

The applicant has stated in his affidavit that the deceased died intestate on 8/3/1999 in Dar es Salaam. Thereafter, one Hamis Juma Killah petitioned for letters of administration and was dully appointed by this court and granted letters of administration on 10<sup>th</sup> April 2008 in Probate and Administration Cause No. 59 of 2005 (the letters of administration appended to the application). Prior to completion of the administration process the administrator, Hamis Juma Killah died on 21/2/2012 leaving the reminder of

the estate unadministered. Following the demise of Hamisi Juma Killah, the family proposed Mohamed Abdallah to petition for appointment as new administrator but he declined. Later, the heirs convened a meeting on 26/9/2017 whereby they proposed the applicant for appointment in substitution of (minutes of a family meeting are annexed to the affidavit).

In addition, the applicant has appended to his application the relevant instruments required by the law for appointment of an administrator, that is, an affidavit as to domicile of the deceased, consent of the heirs (signed by Salim Hamisi Killah, Aziza Hamisi Killah, Asha Hamisi Killah, Zaina Hamisi Killah, Halima Hamisi Killah, Saada Hamisi Killah, and Hamida Hashim), administration bond with sureties, certificates as to sureties' financial position, and oath as to the faithfulness of the administrator. At the hearing, the Applicant, represented by Mr. Abdul Fatah, learned counsel, had nothing substantial to add to the application save the certificate of death of the first administrator Hamisi Juma Killah which he supplied to the court.

Section 49(1)(c) of the Probate and Administration of Estates Act [Cap 352 RE 20002] provides for revocation or annulment of the letters of application if the letters have become useless or have been rendered inoperative. Further in subsection 2, this court is vested with powers to suspend or remove an executor or administrator and provide for the succession of another person to the office of such executor or administrator who may cease to hold office, and for the vesting in such person of any property belonging to the estate.

In my settled view, the letters granted to Juma Hamisi Killah (as surrendered in this court by the Applicant) has been rendered useless and inoperative by his demise. Since the applicant has complied with the law by filing all the required documents as shown above, I am of the settled view that he qualifies for appointment as administrator in substitution of Juma Hamisi Killah. Accordingly, I revoke the letters granted to Hamisi Juma Killah on 10<sup>th</sup> April 2005 through Mirathi No. 59 of 2005 and I proceed to appoint the applicants as new administrator of the estate of the late Hamis Juma Killah. In execution of his roles he shall strictly comply with the law and shall exhibit an inventory within 2 months and file a final account within 4 months from the date of this ruling. It is so ordered.

DATED at DAR ES SALAAM this 23<sup>rd</sup> day of October 2020.



**J.L.MASABO**  
**JUDGE**