

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

**PROBATE AND ADMINISTRATION CAUSE NO. 01 OF 2020**

In the matter of the Estate of the Late **JUSTIN AITALIA LYATUU**  
**(DECEASED)**

**AND**

In the matter of Application FOR LETTERS OF ADMINISTRATION BY:

- |  |   |                    |
|--|---|--------------------|
| <ol style="list-style-type: none"><li>1. <b>ESTHER NDUNGE JUSTIN LYATUU</b></li><li>2. <b>MAGDALENA LUYANASIA LYATUU – NZOMO</b></li><li>3. <b>MARGARET NGIANAELI LYATUU</b></li></ol> | } | <b>PETITIONERS</b> |
|--|---|--------------------|

**RULING**

*Date of last order: 06.10.2020*

*Date of Ruling: 16.10.2020*

**EBRAHIM, J.:**

**Esther Ndunge Justin Lyatuu** (wife of the deceased) of Shanti Town Moshi, **Magdalena Luyanasia Lyatuu**(daughter of the deceased) of Wolverhampton, West Midlands, United Kingdom, and Margaret Ngianaeli Lyatuu (daughter of the deceased) who resides at Nairobi, Kenya have petitioned before this Court for grant of the Letters of Administration of the Estate of the late **JUSTIN AITALIA LYATUU** who passed on at Kichirwa Road(way to hospital), Nairobi on the 30<sup>th</sup> of

March 2019. Certificate of Death No. 0768625 issued at Nairobi District in the Nairobi Province by E.W.Gikubu, District Registrar for National Registry Form D1, BD No. 0386840 dated 10.05.2015 has been appended with the petition.

It is further petitioned that the deceased died intestate and due diligence has been conducted for a Will but none has been found.

When this petition came for hearing, Counsel for the Petitioner, Ms Glory Venance, learned advocate for the Petitioners among other things told the court that they have complied with filing of all requisite documents as required by law as well as issuing a general citation in the Daily News of 31<sup>st</sup> March, 2020 and Nipashe Newspaper of 31<sup>st</sup> March, 2020. The Petitioners have also published in the Government Gazette issue No. 16 of 17<sup>th</sup> April, 2020 as ordered by the Court.

According to the petition filed by the Petitioners, the deceased is survived by Esther Ndunge Justin Lyatuu (widow), Magdalena Luyanasia Lyatuu - Nzomo(daughter), Fritz Mitse Lyatuu (son), Aaron Kawo Lyatuu(son), Elizabeth Ndinda Lyatuu (daughter), Margaret Ngianeli Lyatuu (daughter) and Martin Elijah Lyatuu (son).

Ms. Venace argued before the court that reasonable time has passed since the publication and there is no any caveat or objection that has

been registered so far. She prayed for the petitioners to be granted letters of administration.

**Section 3 of the Probate and Administration of the Estates Act, Cap 352**

**RE 2002 (“the Act”)** confers jurisdiction to this court in all matters relating to Probate and Administration of deceased's estate in granting probate of Wills and Letters of Administration to the deceased's estate. The court is also vested with powers to alter or revoke such grants.

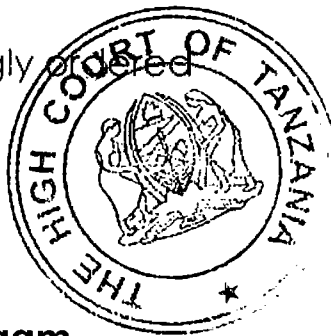
I have carefully gone through the records as well as the petition. The deceased in this matter died intestate. The Petitioners have filed all the requisite legal forms under the law namely; Consent of heirs under **Rule 71 of the Probate and Administration of the Estate Rules (the Rules)**; administratrices' oath under **Section 66 Rule 65 of the Act**; Affidavit as to domicile of the deceased under **Rule 64** that the deceased was residing at Mbezi Beach Area, Dar Es Salaam; Administration Bond with surety under **section 67 Rule 66**; Certificate as to surety financial position under **section 69 of the Probate and Administration of Estates Rules**; of the and a list of the assets for administration which are likely to come to the hands of the Petitioner as stated in para 4(a) and (b) of the petition.

From the above observations and considering that there is no any caveat or objection that has been registered so far by any interested party or relative; nor any proceedings for the grant of probate or letters of administration or otherwise for the administration of the estate of the deceased have been commenced before any court or authority, whether in Tanzania or outside; I am satisfied that the Petitioners have established sufficient grounds warranting the grant of the Letters of Administration. Nevertheless, as for **Magdalena Luyanasia Lyatuu-Nzomo**, there was no any proof of her signature availed to the court nor any physical appearance as ordered by the court. The court was simply informed that the Petitioner is living in the United Kingdom. In those circumstances, I am not satisfied that her appointment would serve any useful purpose in prompt administration of the Estate. More so the court could not ascertain her presence or signature. Under the circumstances, I shall only grant Letters of Administration to **Esther Ndunge Justin Lyatuu** and **Margaret Ngianaeli Lyatuu**. THUS, **Esther Ndunge Justin Lyatuu** and **Margaret Ngianaeli Lyatuu** are hereby appointed as **Co-Administratrices** of the **Estate of the Late JUSTIN AITALIA LYATUU**. I accordingly order that the Letters of Administration be issued to them. **Esther Ndunge Justin Lyatuu** and **Margaret Ngianaeli**

**Lyatuu** are further **ORDERED** to administer the estate of the deceased as required by law and file the necessary inventory before the Deputy Registrar of the High Court within six months from the date of appointment unless further period is prayed and granted.

In order to ensure compliance and ascertain the status of the same, the matter shall be mentioned before the High Court Deputy Registrar on 16<sup>th</sup> April 2021.

Accordingly ordered



A handwritten signature in black ink, appearing to read "R.A. Ebrahim".

**R.A. Ebrahim**  
**Judge**

**Dar Es Salaam**  
**16.10.2020**