

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IRINGA DISTRICT REGISTRY

AT IRINGA

PROBATE AND ADMINISTRATION CAUSE NO. 1 OF 2020

IN THE MATTER OF ESTATE OF THE LATE KENETH ELLY

NYANGOYA DECEASED

AND

SALOME DAUDI WERE

Date of Last Order: 27/10/2020

Date of Ruling: 12/11/2020

RULING

MATOGOLO, J.

Salome Daudi Were, the applicant in this application through the services of Mr. Edmund Mkwata learned advocate has filed this application for an order appointing her as a receiver pending grant of the letters of administrator of deceased estate. The application was brought under the certificate of urgency. It is by chamber summons made under section 10 of the probate and Administration of Estates Act Cap. 352 R. E. 2002, Rule, 24 of the Probate Rules and any other enabling provisions.

The application is supported by an affidavit taken by the applicant herself.

At the hearing Mr. Edmund Mkwata learned advocate adopted the affidavit of the applicant. Basing on the grounds given in the applicant's affidavit the leaned advocate prayed to this court to appoint the applicant

as a receiver pending the appointment of the administrator of the deceased estates.

Apart from what was stated by the applicant in an affidavit, the applicant orally informed this court that she is among the three widows of the deceased, herself being a senior wife. Others are Debora Uyugi and Jesca. The widows are all alive. The applicant stated further that apart from the three wives the deceased was survived with four children namely Rodrick Keneth, Roze Keneth, Royce Keneth and Rogers Keneth. Rodrick Keneth is born from the applicant, Roze and Royce are from the second wife Debora Uyugi and Rogers was born from Jesca. The applicant disclosed further that there is no good relationship between her and one Rehema Nyangoya the deceased sister, who also has hampered the whole process of appointment of an administrator of the deceased estate. However the deceased sister and deceased brother are using some of the properties left by the deceased. It is that reason which has pushed her to file this application to be appointed a receiver of the deceased estate pending appointment of the administrator of deceased estate.

As did the applicant's counsel, applications for appointment of receiver in probate and Administration causes are made under Section 10 of the Act as well as Rule 24 of the Probate Rules Section 10 provides:-

"10 where any persons dies leaving property within Tanzania, the court may, if it appears on the application of the Administrator General or of any person claiming to be interested in such

property or having the custody or control thereof at the time of the death of the deceased or being at such time an attorney of the deceased, that there is a danger that such property may be wasted, appoint the Administrator General or such other person as the Court think fit, to be a receiver of such property pending a grant of probate or letters of administration."

Rule 24 of the Probate Rules provides:-

"24 Appointment of receiver (1) An application for appointment of a receiver under Section 10 of the Act shall be made by chamber summons supported by an affidavit or affidavits showing:-

- (a) The date of the death of the deceased;*
- (b) The domicile of the deceased;*
- (c) Whether the deceased died testate or intestate;*
- (d) Whether an application for grant of Probate or letters of administration has been made to any court and if so by whom;*
- (e) The names and addresses of persons entitled to inherit the estate;*
- (f) The estimated gross value of the estate,*

- (g) The description and value of the property in respect of which the application is made.*
- (h) The reasons for making the application; and*
- (i) Except where the proposed receiver is the public Trustee or the Administrator General, that the person proposed to be appointed as receiver is a fit and proper person to be so appointed”.*

I have read the chamber summons as well as the accompanying affidavit. The deponent has disclosed what is required under the rule.

The applicant has explained circumstances under which she sought order is called for. As stated by the applicant herself, the deceased is survived with three wives and four children from different mothers. As stated by the applicant the children are still minor with ages ranging from five or six years to 17 years. But also the deceased left estate with a total value of Tshs. 500,000,000/= located at Iringa, which are likely to be wasted if not placed in the proper hands before the real administrator is appointed.

Therefore upon the application by Salome Daudi Were and upon reading the contents of her affidavit and what she submitted orally in court, I hereby appoint SALOME DAUDI WERE to receive the following properties:-

- (j)* Caterpillar D 6H Dozer
- (ii)* Excavator
- (iii)* Robed

- (iv) One Motor vehicle Nissan Patrol Registration No.T650 AKL
- (v) One motor vehicle Nissan Patrol with Registration No. T 177 AUX
- (vi) Hydroform Machine
- (vii) Dyanamo Machine
- (viii) Garage at Igumbilo
- (ix) 2 Plots of Land at Igumbilo
- (x) One Motor Vehicle Ford Ranger with Registration No. T256 AFH
- (xi) One Motor vehicle Toyota Hillux with Registration No. T 186 BLF
- (xii) One Motor vehicle Pajero with Registration No. T 297 ADY
- (xiii) One Scania Lorry with Registration No. 141 T. 754 ARD
- (xiv) One Scania Lorry with Registration No. T. 158ACP
- (xv) Scania Engine 141
- (xvi) Generator
- (xvii) 19 Used Tyres
- (xviii) Used Spare Parts
- (xix) Used Iron Sheets and
- (xx) 2 Used Motorcycles.

These properties will be under the above mentioned applicant until such time the administrator of the deceased estate shall be appointed. The receiver shall not sell, alienated or dispose of the said property in any way.

This order for receiver shall last for six month from today and it is ordered that all interested persons in the deceased estate to convene and propose for a name of a person or persons who will petition for letters of administration of the deceased estate which shall be done within such period of six months.

It is so ordered.

DATED at **IRINGA** this 12th day of November, 2020.


F. N. MATOGOLO

JUDGE

12/11/2020



Date: 12/11/2020
Coram: Hon. F. N. Matogolo – Judge
Applicant: Absent
C/C: Grace

Mr. Edmund Mkwata - Advocate:

My Lord I am appearing for the applicant who is also present. The matter is for ruling we are ready to receive it.

COURT:

Ruling delivered.


F. N. MATOGOLO

JUDGE

12/11/2020

