

**IN THE HIGH COURT OF TANZANIA
TABORA DISTRICT REGISTRY
AT TABORA**

PROBATE AND ADMINISTRATION CAUSE NO. 7 OF 2019

**IN THE MATTER OF THE ESTATE OF THE LATE LEONARD
SHANGALI BURETA**

AND

**IN THE MATTER OF AN APPLICATION FOR LETTERS OF
ADMINISTRATION BY DENIS LEONARD BURETA**

JUDGMENT

Date of Hearing – 18/11/2020

Date of Delivery – 20/11/2020

AMOUR S. KHAMIS, J:

By a Petition dated 15th November 2019, Denis Leonard Bureta sought an order for appointment as administrator of the estate of the late Leonard Shangali Bureta who died intestate on 8th August 2019.

The deceased was survived by three children Lusina Leonard Bureta, Candida Leonard Bureta and Denis Leonard Bureta, the petitioner herein.

It was revealed that the deceased was a Tanzanian by birth and professed a Christian faith.

It was further disclosed that the deceased was a resident of Tabora Region and had a fixed place of abode at National Housing Area, within the territorial jurisdiction of this Court.

The petition showed that the deceased left various landed properties, businesses and bank accounts whose total value was estimated to be more than Shillings One Hundred Million (Tshs. 100,000,000/=).

Pursuant to the Order of this Court, the general citation was published in the Government Gazette ISSN 0856 – 0323 of 3rd July 2020 and Mwananchi Newspaper of 25th June 2020 (ISSN 0856 – 7573) as per Rule 75 of the **PROBATE RULES, G.N NO. 369 OF 1963.**

No caveat was lodged against the proposed appointment and the matter proceeded uncontested.

On account of Section 52 (a) of **THE PROBATE AND ADMINISTRATION OF ESTATES ACT, CAP 352, R.E 2019**, the petitioner was granted leave to lead his evidence.

PW 1 DENIS LEONARD BURETA stated that he was a son of the deceased who died at Kairuki Hospital in Dar es Salaam on 8th August 2019.

He said that on 10th August 2019 the deceased's family held a meeting at Mkuu Rombo and proposed him as administrator of the estate.

The deceased's death certificate and family meetings were admitted as exhibits in the course of testimony.

On examination by the Court, the witness stated that the deceased's wife had passed on since 26th April 2003 and that the deceased, Leonard Shangali Bureta did not re-marry.

On further examination, PW 1 testified that the deceased's parents had died earlier than him.

He clarified that the three children of the deceased were the only beneficiaries to the estate.

The issue is whether the petitioner is entitled to the letters of administration.

In **SEKUNDA MBWAMBO V ROSE RAMADHANI (2004) TLR 439**, this Court summarized the law on appointment of administrator of the estate and pointed out qualities and duties of an administrator, thus:

"The objective of appointing an administrator of the estate is the need to have a faithful person who will, with reasonable diligence, collect all properties of the deceased. He will do so with the sole aim of distributing the same to all those who were dependents of the deceased during his life time. The administrator, in addition, has the duty of collecting all the debts due to the deceased and pays all the debts owed by the deceased. If the deceased left children behind, it is the responsibility of the administrator to ensure that they are properly taken care of and well brought

up using the properties left behind by their deceased parent. After the administrator has so faithfully administered and distributed the properties forming the estate he has a legal duty to file an inventory in the Court which made the appointment giving a proper account of the administration of the estate. This action is intended to help any one of the beneficiaries who feels aggrieved at the way the property was distributed and thus dissatisfied to lodge his/her complaints to the Court which would in turn investigate the same and decide the matter in accordance with the dictates of the law.

In view of all this, it is evident that the administrator is not supposed to collect and monopolize the deceased's properties and use them as his own and/or dissipate them as he wishes, but he has the inevitable heavy responsibility which he has to discharge on behalf of the deceased.

The administrator might come from among the beneficiaries of the estate, but he has to be very careful and impartial in the way he distributes the estate. Furthermore, it must by now be very obvious to all, that such an administrator must be a person who is very close to the

deceased and can therefore, easily identify the properties of the deceased. He must also have the confidence of all the beneficiaries or dependents of the deceased. Such a person may be the widow, or the widows, the parent or child of the deceased or any other close relative of the deceased. If such people are not available or if they are found to be unfit in one way or the other, then the Court has the powers to appoint any other fit person or authority to discharge this duty."

Upon examination of the present matter, I was satisfied that the petition was made pursuant to the provisions of the law.



All requisite documents such as the petition, affidavit as to domicile, administrator's oath and consent by beneficiaries of the estate were filed in line with **THE PROBATE RULES, G.N NO. 10 OF 1963** as amended by **G.N NO. 107 OF 1963** and **G.N NO. 369 OF 1963**.

Bearing in mind that the petitioner is a son of the deceased, a general citation was issued about five (5) months ago and there was neither a caveat nor an objection throughout these proceedings, I am satisfied that a prayer sought is justified.

In the circumstances, and for the aforestated reasons, the petition is granted.

The petitioner, Denis Leonard Bureta, is hereby appointed as administrator of the estate of the late Leonard Shangali Bureta in accordance with Section 33 (1) of **THE PROBATE AND ADMINISTRATION OF ESTATES ACT, CAP 352, R.E 2002**, Rule 84 and Form No. 68 of **THE PROBATE AND ADMINISTRATION OF ESTATES RULES** (supra).

It is so ordered.



AMOUR S. KHAMIS
JUDGE
20/11/2020

Order: Judgment delivered in open Court this 20th day of November 2020 in the presence of Ms. Elizabeth Kijumbe advocate for the Petitioner. Right of appeal explained.



AMOUR S KHAMIS
JUDGE
20/11/2020