

IN THE HIGH COURT OF TANZANIA
IN THE DISTRICT REGISTRY
AT MWANZA

MISCELLANEOUS CIVIL APPLICATION NO. 112 OF 2020

(Arising from HC Civil Appeal No. 54/2019 of the High Court of Tanzania dated 24th July, 2020, originating from Probate Revision No. 01/2019 of District Court of Geita at Geita from the Primary Court of Katoro at Geita in Probate Cause No. 01 of 2019)

NEEMA SAYI SITTA APPLICANT

VERSUS

NKAMBA SAYI SITTA..... RESPONDENT

RULING

16th & 16th February, 2021

RUMANYIKA, J.:

When the application for certification on point of law, with respect to decision of this court (Mgeyekwa, J) dated 24/07/2020 it was called on today for hearing, Mr. Kamuhanda learned counsel for Neema Sayi Sitta (the applicant) prayed to withdraw the matter without costs. Mr. A. Molandi learned counsel for Nkamba Sayi Sitta (the respondent) had no objection but he asked for costs.

The central issue is not whether the application should be marked withdrawn as prayed without costs. At least impliedly though the learned counsel were agreed that the blood related parties all along they quarrelled over a deceased's estate hence probate proceedings by origin. There is

therefore no wonder that at no point in time all the way from Katoro Primary Court to this court no court had ordered costs. Like Mr. Molandi learned counsel argued, this one was a fit case where in orders for costs should have always been avoided. I would increasingly hold that if at all quietly the respondent had never asked for the costs throughout, that one was the reason behind. It follows therefore that it was not accidental but by design that all the courts below had never made orders for costs.

The application is as marked with drawn as it was prayed by Mr. Kamuhanda learned counsel for the applicant. Each party shall bear their costs. It is accordingly ordered.

S. M. RUMANYIKA
JUDGE
16/02/2021

The ruling delivered online under my hand and seal of the court in chambers this 16/02/2021.



S. M. RUMANYIKA
JUDGE
16/02/2021