

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

AT DAR ES SALAAM

PROBATE AND ADMINISTRATION CAUSE NO. 38 OF 2015

**IN THE MATTER OF ADMINISTRATION OF THE ESTATE OF THE
LATE BARNABAS ZILINDE**

AND

**IN THE MATTER OF APPLICATION FOR THE GRANT OF LETTERS OF
ADMINISTRATION**

BY

EMMY ZILINDE..... 1st PETITIONER

REMMY ZILINDE.....2nd PETITIONER

RULING:

28th January & 4th March 2021

A.K. Rwizile, J.

According to the death certificate, the late Barnabas Zilinde died on 4th June 2014. Basing on the pleadings, the same died intestate while survived by four children to wit two sons and two daughters. The 1st petitioner (now also deceased) survived him as a widow. Before this petition took off for hearing, one Ally Barnabas Zilinde filed a caveat. He claimed, to be another surviving son of the deceased Barnabas.

Before she passed away, Emmy Zilinde, a widow and the 3rd wife of the deceased, in company of Remmy, Gerald, Mariam and Erica disputed having known the caveator as a son of the deceased and so was not listed among the heirs of his estate. The caveat was heard and determined in his favour thereby making a total number of heirs to be 5, contrary to what was pleaded before. Upon determination of the caveat. The matter was fixed for hearing of the petition as required by law. This ruling is therefore in respect of appoint of the administrator of the estate of the late Barnabas Zilinde. The record shows Emmy Zilinde is dead. This means the 2nd petitioner Remmy Zilinde is the only petitioner.

He testified; he was duly appointed by the family meeting to administer the estate of his late father. He tendered the death certificate as P1. According to him based on the documents in place and upon thorough searching and consultation, there is no Will that has been found. He therefore concluded that there is no Will.

According to him, properties likely to be in his disposal include; Two shambas at Mukuranga and Mvuti, three houses; two at Mbeya and one at Tandika and one Pistol kept at the central police station in Dar- es salaam.

It was also his evidence that the deceased worked with the government as the health officer. He also owned bank accounts with NMB, CRDB Bank, and NBC. He said, the heirs of the estate are;

- i. Gerald B. Zilinde
- ii. Marium B. Zilinde
- iii. Erica B. Zilinde
- iv. Remmy B. Zilinde
- v. Ally B. Zilinde (following the decision of this court on a caveat).

He therefore asked this court for appointment as an administrator.

The second person to support his appointment was Ally Zilinde (Pw2) who additionally testified that there are other properties in his knowledge that belong to the estate which are not mentioned by the petitioner. According to him, there are 6 motor vehicles, two houses at Mbeya, plots of land at Iringa and Mbeya, a house at Iringa and Morogoro, two houses at Goba, 6 at Mbagala kiburugwa, and farm lands at Mtungi wa Maji, Bubu, Mbezi, and Mvuti. He also mentioned debts with Charles, Mnyalu, Ramla and Richard Kandes all at the tune of 3,700,000/=.

Others who testified include, Gerald Zilinde (Pw3) and Erica Zilinde (Pw4). They were all in support of his appointment.

Having heard the petition before me and heard the witnesses as well as the submission of Mr. Mmuru learned advocate for the petitioner. It is crystal clear to me that the appointment of the 2nd petitioner, is not contested.

The petition has in all fours complied with the law. I therefore do not see why; I should not grant the appointment. That being the case, the 2nd petitioner one **Remmy Barnabas Zilinde** is hereby appointed an administrator of the estate of the later **Baranabas Zilinde**. Let letters be issued.

A. K. Rwizile

JUDGE

04.03.2021

