

IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

PROBATE APPEAL NO. 03 OF 2021

(Original Probate Cause No. 3/2020 of Geita District Court)

LEONARD T. SHELO & 9 OTHERS APPELLANTS

VERSUS

THERESIA THOMAS SHELO RESPONDENT

JUDGMENT

8th & 20th April, 2021

RUMANYIKA, J.:

The appeal by Leonard T. Shello and 9 Others it is with respect to the estate of the late Thomas Shello Nzoza (the deceased) for which, pursuant to records the citation having been issued on 12/11/2020, the subsequent decision, therefore the letters of administration were granted on 13/01/2021 to the Theresia Thomas Shello (the respondent) by the district court of Geita (the probate court).

When, by way of audio teleconferencing the appeal was called on 08/04/2021 for hearing, though all were duly served, only Leonard T. Shello, Regina Shaban, Maria T. Shello and Beston T. Shello (the 1st, 2nd, 4th and 10th appellants) respectively appeared online however, additional to

the memorandum of appeal on their behalf through mobile No. 0765645524 the 1st appellant submitted that over a clan meeting them having had proposed the sister respondent administratrix of the estate, but surprisingly the respondent having had by passed them, and for that reason in writing they had complained to the probate court, yet they lost the battle much as they proposed her only on 18/07/2020 but surprisingly on or by 23/07/2020 she had the letters of administration granted to her. That is all.

The respondent submitted that the appellants had never been cooperative the latter having had denied her access to the respective death certificate and such kind of the documents much as say out of 23 of them (survivors of the estate), with respect to the estate the (house) appellants had converted all the rental collections into their own use. That is all.

Rephrased, the 4 grounds essentially revolve around two (2) points namely; **(a)** that with respect to appointment of the respondent the probate court erroneously overruled the appellant's objection registered on 24/12/2020 **(b)** that with regard to the matter, the probate court's was neither a judgment nor proceedings.

The central issues are as far as the appellants' consent is concerned whether the respondent was properly granted the letters of administration. The answer is yes because; **one**; the respondent, according to the appellants the latter's biological sister she was picked, and, pursuant to the clan meeting of 18/07/2020 proposed administratrix, **two**; having had thereat dully instituted the probate cause, and according to records through Mwananchi Local Newspaper of 19/11/2020 on 13/01/2021 the probate court found and it held that the citation was properly made and nobody had revoked the said clan deliberations and consent, the issue of one having had been by passed by the respondent it was neither here nor there much as also, the respondent hadn't even presented any inventory to the probate court of which on one aspect or the other the latter would have been accused say of dishonesty of any kind. If anything, unless for some reasons the appellants only played delaying tactics and the court should not in any way condone it, both the alleged objection and the instant appeal were but improper and premature whether or not the probate court's was a judgment or proceedings it is immaterial.

In the upshot, the devoid of merits appeal is dismissed. Until such time when the respondent shall have seated with them therefore just

before she filed the inventory, the appellants shall, with immediate effect surrender all the respective rental collections to the respondent. With immediate effects the lower court records to be remitted to the probate court. It is ordered accordingly.

Right of appeal explained.



S. M. RUMANYIKA

JUDGE

17/04/2021

The judgment is delivered under my hand and seal of the court in chambers this 20/04/2021 in the absence of the parties.



S. M. RUMANYIKA

JUDGE

20/04/2021