

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

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 389 OF 2021**

**ADAM HALIDI GONGORO ..... APPLICANT**

**VERSUS**

**AMINA HAMISI KIMARO ..... RESPONDENT**

**RULING:**

*Date of Ruling: 18<sup>TH</sup> August, 2021*

**A.R. MRUMA**

What is before me is an application (ie. Chamber summons) brought by the Applicant Adam Halidi Gongoro purportedly under section 95 of the Civil Procedure Code [Cap. 33 R.E. 2019], seeking the following reliefs:

1. That, this honourable court be pleased to order the Respondent to bring and produce death certificate of Halidi Gongoro and minutes of clan meeting to appoint administrators in order for the Applicant to file a petition for letters of the estate or administration of the late Halidi Gongoro.
2. That, costs of this application be provided for.

This application is under a certificate of urgency. The Respondent is one Amina Hamis Kimaro. When the matter was called before me for the 1<sup>st</sup> time, I asked counsel for the Applicant Mr. Simba Pius Kipengere to address me on the question whether Chamber summons made under the provisions of Civil Procedure Code [Cap. 33 R.E. 2019] is maintainable without there being a suit filed prior to its filing.

The learned counsel replied that it is possible to bring chamber application prior to filing of a suit. He said that initially his client had wanted to petition for letters of administration of the estate of that late Halidi Gongoro but in the process he realized that he had neither death certificate of the deceased nor minutes of a clan meeting. He said that this application is intended to force the Respondents to produce the two documents to enable his client to file petition for letters of administration.

I have considered the Applicant's application together with counsel's submissions in support thereof. In my view this application is un-maintainable. In law chamber summon is a document issued by the court summoning a person to appear before it for purposes of hearing an application. It is a document which is primarily used to initiate Civil application. Civil applications are legal process in which a party can seek for an interim or temporary orders/or remedy in civil proceeding. In other words, a chamber application is made to the court for an order in a Civil proceeding. It follows therefore that if there is no pending Civil proceeding chamber application cannot be maintained under the provisions of Civil Procedure Code. A typical example of chamber application is when a party asks another party to provide details of its proceedings and it refuses, the party asking for such details may make chamber application to the court for an order that the party supply those details.

In the instance application the Applicant is asking the Respondent to provide him with a death certificate and minutes of a clan meeting. In my view, the proper procedure to obtain the said documents from the Respondent would have been to institute a suit or probate first and join her as a party and thereafter request court to order her to produce the same. As this has not

been done, I find that this application has been prematurely filed and it is incompetent and not maintainable in law. I proceed to strike it out with no orders as to the costs.

  
**A. R. Mruma**

**JUDGE**

**18/8/2021**

**COURT:**

Pronounced in Chambers in presence of Mr. Simba Pius Kipengele, advocate for the Applicant this 18<sup>th</sup> day of August, 2021.

  
**A. R. Mruma**

**JUDGE**

**18/8/2021**

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Coram: Hon. A. R. Mruma, J.

For the Applicant: Mr. Simba Pius Kipengele (Advocate)

For the Applicant who is present.

For the Respondent: Absent (not served)

C.Clerk : Mwangoka

**COURT:** Ruling delivered.

  
**A. R. Mruma**

**JUDGE**

**18/8/2021**