

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. CIVIL APPLICATION NO. 21 OF 2019

**(C/F The High Court of Kenya at Nairobi, Succession Cause No.
1700 of 2000)**

**IN THE MATTER OF PROBATE AND ADMINISTRATION OF ESTATES
ACT, CAP. 352, R.E. 2002**

AND

**IN THE MATTER OF THE ESTATE OF THE LATE FRANCIS KIOKO
MULULU (DECEASED)**

AND

**IN THE MATTER OF RESEALING OF LETTERS OF ADMINISTRATION
GRANTED TO ANASTAZIA KIOKO MULULU, PETER KIOKO MULULU,
AND ELIZABETH MBATHA KIOKO AS ADMINISTRATORS OF THE
ESTATE OF THE DECEASED**

RULING

27/8/2021 & 3/9/2021

ROBERT, J:

This is an application for sealing of probate in respect of the estate of the late Francis Kioko Mululu granted outside the United Republic of Tanzania. The application is brought under section 95 of the Probate and Administration of Estates Act, Cap. 352, R.E. 2002 and Rule 97 and 98 of the Probate Rules. The application is supported by an affidavit sworn by Anastazia Kioko Mululu who is the daughter and one of the administrators of the estate of the late Francis Kioko Mululu.

Brief details relevant to this application reveals that on 18th October, 2000 the High Court of Kenya at Nairobi in succession Cause No. 1700 of 2000 granted letters of administration to Anastazia Kioko Mululu, Peter Mululu Kioko and Elizabeth Mbatha Kioko, the Applicants herein, as Administrators of the Estate of the late Francis Kioko Mululu who died domiciled in the Republic of Kenya on the 14th day of April, 2000 at Nairobi Hospital.

Upon filing of this application, the Notice of Application for Resealing was issued and published in official Government Gazette dated

14th May, 2021 at page 45 and the application stood uncontested at least up to the date of hearing of this application on 7th June, 2021.

At the hearing of this application, the Applicants were represented by Mr. Emmanuel Kinabo, learned counsel. Since nobody wished to appear and be heard in objection to this application, the court proceeded with the hearing in order to determine the merit of this application.

Submitting in support of this application, Mr. Kinabo prayed to adopt the affidavit in support of this application as part of his submissions. He informed the Court that during the lifetime of the deceased, Francis Kioko Mululu, he acquired various properties in the United Republic of Tanzania including a parcel of unregistered land with improvements thereon located ~~at Kimandolu area, Arusha region~~ measuring a width of 78 feet on the east and 118.8 feet on the west and a length of 214 feet from North to South. The land is valued approximately at TZS 300,000,000/= and is located within the jurisdiction of this court. The learned counsel prayed for resealing of letters of administration issued by the Kenyan Court to enable the Administrators of estate, Applicants herein, to administer the deceased's estate which is located in the United Republic of Tanzania.

Having considered the submissions and documents in support of this application, this court finds that since the Applicants relies on letters of administration granted by the High Court of Kenya which indicates that the Applicants were granted letters of administration intestate, in order for the letters of administration so granted to have the like force and effect and have the same operation in Tanzania under section 95 of the Probate and Administration of Estates Act, Cap. 352 (R.E. 2002), the Applicants ought to apply for sealing of letters of administration not sealing of probate. This Court requested clarification from the learned counsel for the Applicant who assured this court that since the High Court of Kenya at Nairobi issued letters of administration and not letters of probate, this application was intended to apply for sealing of letters of administration and not probate.

Given that application for sealing of probate and sealing of letters of administration is guided by similar procedure and enabling provisions, this Court will proceed to determine this application as an application for sealing of letters of administration.


Considering that the Applicants have produced and deposited to this Court a copy of letters of administration granted by the High Court of Kenya which is a commonwealth country, published their Notice of application for

resealing in the Government Gazette, lodged an inventory and evaluation of property in respect of which the application is made and their application for resealing of the said letters of administration remained uncontested for more than 14 days after being published, this court finds that this application meets the requirements of section 95 of the Probate and Administration of Estates Act, Cap. 352 (R.E. 2002) as well as Rules 97 to 102 of Probate Rules. Accordingly, I find no reason not to grant the orders for sealing of the letters of administration in order to enable the Administrators of Estate to administer the property in respect of which this application is made in the United Republic of Tanzania for the interest of surviving dependents and heirs and in accordance with the law.

Consequently, I make an order for sealing of letters of administration granted to the Applicants by the High Court of Kenya at Nairobi in Succession Cause No. 1700 of 2000 and direct the Registrar of the Court to endorse thereon under Rule 103 of the Probate Rules subject to the Applicants giving of security sufficient to cover the value of the property as indicated in the inventory and evaluation of property in respect of which application for resealing is made as required under section 96 of the Probate and Administration of Estates Act, Cap. 352.

It is so ordered.




K.N. ROBERT
JUDGE
27/8/2021