

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(ARUSHA DISTRICT REGISTRY)

AT ARUSHA

MISC.CIVIL APPLICATION NO. 96 OF 2021

(PROBATE AND ADMINISTRATION CAUSE NO. 31 OF 2021)

IN THE MATTER OF THE ESTATE OF THE LATE CHANA UKA MODHWADIA

AND

**IN THE MATTER OF APPLICATION FOR PENDENTE LITE BY NATHA CHANA
MODHWADIA**

RULING

07/12/2021 & 08/12/2021

KAMUZORA, J.

The applicant, **NATHA CHANA MODHWADIA** has brought this application under section 38 of the Probate and Administration of Estate Act, Cap 352, R.E, 2002 and Rule 50 of the Probate Rules. This application was filed under certificate of urgency and it is supported by an affidavit deposed by the counsel for the applicant one Mr. Jeremiah S. Mjema. The application is also accompanied with the oath of the administrator and the administrator bond pendente lite. The affidavit in support of application reveals that, there is a pending Probate and Administration Cause No. 31

of 2021 before this Honourable court. Thus, the applicant craves to be appointed administrator temporarily pending hearing and determination of Probate Cause No. 31 of 2021.

When submitting in support of the application, the counsel for the applicant averred that the grant of this application is very important due to the nature and value of the property left by the deceased. That, the Probate matter was first instituted before the primary court at Babati and the applicant in this application was appointed administrator of the deceased estate. His appointment however was terminated by the District Court in Revision No.11 of 2021 for want of jurisdiction of the primary court.

Mr. Mjema also averred that the estate of the deceased comprises of valuable properties of almost One Billion Tanzanian shillings including; a house at Malangi Babati, a house at Magugu, a plot at Magugu, the large farm at Dudumila Hanang' under certificate of title 2477 and shares in Dudumila Plantations to which the deceased was a majority shareholder and Managing Director. That, currently the said Dudumila Plantations has no director thus the need to appoint a person who will protect the interest of the deceased. That, as there is no administrator for the time being,

some of the relatives had started to meddling with the deceased's estate in pretense of the said termination of the appointment of the administrator by the District Court. That, it is important to appoint the Applicant **NATHA CHANA MODHWADIA** who is the eldest son of the deceased and a respectable person to protect the estate from being wasted.

An application for the grant of probate or letters of administration pendente lite is governed by section 38 of the Probate and Administration of Estates Act, Cap. 352 RE 2002. The said provision is express that:

"Pending the determination of any proceedings touching the validity of the will of a deceased person or for obtaining or revoking any probate or any grant of letters of administration, the court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the court and shall act under its direction."

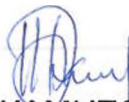
I am alive of the position of the law and the fact that the order is only intended to facilitate the preservation of the deceased's estate by empowering the appointed person to act as interim administrators with all the powers and rights of a general administrator other than the right of

distributing the estate. Considering the circumstances so explained by the counsel for the applicant and facts deposed in the affidavit in support of the application, I find it fit to grant the prayers by the applicant in order to protect the estate of the deceased from being wasted or misused.

For that purpose, the Letters of Administration Pendente Lite for the administration of the Estate of the late **CHANA UKA MODHWADIA NATHA** are hereby granted to the applicant **CHANA MODHWADIA** pending determination of Probate and Administration Cause No. 31 of 2021. He shall administer the estate according to the law and to the extent prescribed therein.

DATED at **ARUSHA** this 8th Day of December 2021




D. C. KAMUZORA
JUDGE