

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF
TANZANIA**

(TANGA DISTRICT REGISTRY)

AT TANGA

MISC. PROBATE APPEAL NO. 14 OF 2021

(ARISING FROM CIVIL APPEAL NO. 28 OF 2019, TANGA D/COURT)

(ORIGINAL PROBATE CAUSE NO. 9/2019, TANGA URBAN PC)

JUMAA ABASI..... APPELLANT

VERSUS

HAWA ABUU SEIF.....RESPONDENT

JUDGEMENT

Mansoor, J:

Date of judgement- 14TH JUNE 2022

Jumaa Abasi applied before the Primary Court, Tanga Urban Primary Court to be appointed the Administrator of the Estates of the Late Nasoro Ramadhani Kivurunganya. It was probate Cause No. 9 of 2020. Jumaa Abas was approved by the family in a family meeting held on 09th August 2020, but in this



meeting, the wife of the deceased, Hawa Abuu Seif, the respondent herein, did not attend. Nassoro Ramadhani Kivurunganya, the deceased, died intestate at Tanga on 17th May 2015. Hawa Abuu Sefu objected the appointment of Jumaa Abbasi, and upon hearing, the Primary Court appointed the two of them to be the joint administrators of the Estate of the Late Nasoro Ramadhani Kivurunganya.

Hawa Abuu Sefu was not happy, she was aggrieved, she did not want Jumaa Abasi to administer the estate of her late husband, who according to her the only estate he left behind was a share in the house located at Plot No 141 Bloc D Makorora Area in Tanga City. She appealed to the District Court; it was Probate Appeal No. 28 of 2019. The appeal was successful and by the Judgement of Hon. A.N. Masua RM, dated 20th May 2021, the appointment of Jumaa Abasi as the Administrator of the Estate of the Late Nasoro Ramadhani Kivurunganya was revoked. Hawa Abuu Sefu's appointment



was confirmed, and she remained the only Administrator of the Estate of the Late Nasoro Ramadhani Kivurunganya.

Aggrieved by the decision of the District Court, the appellant, Jumaa Abasi filed the present appeal raising three grounds of appeal as shown in the Memorandum of Appeal, this is Misc. Probate Appeal No. 14 of 2021. The Appeal was set for mention on 2/08/2021 but on that date before Hon Judge Ukena Agatho, the appeal was dismissed for want of appearance of the parties, fortunately the appeal was readmitted on 17th February 2022 by Hon Latifa Mansoor upon an application by Jumaa Abasi. On the same date, parties who appeared in person applied to have the appeal argued by written submissions. The prayer was granted, and the Appellant was ordered to file the submissions in chief on 3rd March 2022. The Appellant filed the submissions, but he never submitted on the grounds of appeal, he submitted on the prayers of the readmission of the appeal, which was already re-admitted. This means that the Appellant failed to



substantiate and to support the grounds of appeal. No wonder the respondent did not file any replies. Failure to submit on the grounds of appeal is equally failure to prove the case on the preponderance of doubts in civil cases, in this view therefore it appears that there is no strength in the grounds of appeal raised by the appellant in his memorandum of appeal and the appellant has failed to prove his case on the required standard.

In any case, on the merits of the appeal, and from the records of the lower courts, it can be observed that the Letters of Administration are issued by the Court when the deceased did not leave a Will (this is called "*dying intestate*") to one or more of the people entitled to the estate in accordance with the law. It be noted that the letters of administration are issued only to those people who are entitled to the estate, and not to every person. Obviously, Jumaa Abasi being only a nephew to the deceased, he is not entitled to the estate of the deceased as nephews are not heirs of the deceased. Letters of



Administration will normally be granted to a person who is entitled to the estate, or a share of the estate, under the rules of law in place governing distribution on "intestacy". Therefore, the citations are given to everyone who is entitled or interested in the proceedings who are entitled to a share in the estate.

In this case, it is evident that the deceased left behind no children, he left only one wife, and a property located Plot No.141 Block D Makorora Area in Tanga City and this property was owned by the late Nasoro Ramadhani and his wife Hawa Abuu Seif as Joint Tenants (See the receipt for payments of for acceptance of the letter of offer issued by the Ministry of Lands on 15/092011 with Ref. No. TAD/3517, available on records. The term "joint tenancy" refers to a legal arrangement in which two or more people own a property together, each with equal rights and obligations. Joint tenancies can be created by married and non-married couples, friends, relatives, and business associates.



This legal relationship creates what is known as a right of survivorship so if one owner dies, their interest in the property is directly passed on to the surviving party(s) without having to go through probate or administration. This property located at Plot No.141 Block D Makorora Area in Tanga City now belongs to Hawa Abuu Sefu since the co-owner died, and the right to own it goes directly to the surviving party. The only estate left behind by the deceased was this property which was owned jointly by the deceased and his wife as joint tenants. It is therefore not necessary to obtain a Grant where a home or this house is held in joint names and is passing by survivorship to the other joint owner.

That said, the decision of the District Court is upheld, Hawaa Abuu Sefu is the only surviving owner of the property located at located Plot No.141 Block D Makorora Area in Tanga City, and this property cannot be the subject of the estate of the Late Nassor Ramadhani. The letters of administration, if at all are necessary, shall be for purposes of administering other estates, and not the house located Plot No.141 Block D



Makorora Area in Tanga City as this is the sole property of
Hawa Abuu Sefu.

Appeal dismissed, and since parties herein are relatives, no
cost is awarded.

DATED and DELIVERED at TANGA this 14th day of JUNE 2022



A handwritten signature in blue ink, appearing to read "Mansoor", is written over the printed name.

MANSOOR

JUDGE

14TH JUNE 2022