

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

**(DAR ES SALAAM DISTRICT - REGISTRY)**

**AT DAR ES SALAAM**

**PROBATE AND ADMINISTRATION CAUSE NO. 22 OF 2020**

In the matter of the estate of the late

**MARCO KAMUGISHA LWIZA..... DECEASED**

**AND**

In the matter of an application for letters of administration by

**AMOS L. LWIZA.....ADMINISTRATOR**

**JOSEPHINE D. LWIZA.....ADMINISTRATRIX**

**RULING**

*12/07/2022*

**I.C. MUGETA, J**

The administrator and administratrix of this estate were appointed on 02/11/2021. To date they have neither filed inventory nor accounts of the estate despite several orders commanding them to do so. The major reason for the failure is that they do not cooperate with each other.

For example, on 24/02/2022 the administratrix (Josephine Lwiza) filed inventory which was not signed by the administrator (Amos Lwiza). The reason being that he refused. On 11/07/2022, the administrator filed inventory and accounts which are not signed by the administratrix for the reason that she does not cooperate. However, she responded that she was neither properly involved in their preparation nor in the filing. She said she

*Mgeta*

has been unsuccessfully making follow up with the administrator through various means of communication. The administrator disputed to have communicate with her. On that account, the administratrix produced email correspondences between them which show that they had a disagreement on the contents of the two documents as the administrator wanted to include properties which no longer exists. She produced emails of their communications which were filed and marked "A". Then she read in court from her cell phone her correspondences with the advocate of the administrator on the filing of the document but she received no reply from him. She had to communicate with the advocate as the administrator had directed her to do so.

The following is the chronology of orders of he courts they have failed or neglected to comply with.

- i. On 02/11/2021 they were ordered to file inventory by 01/12/2021.
- ii. On 01/12/2021 they were ordered to file the inventory by 24/02/2022.
- iii. On 28/02/2022 they were ordered to file inventory by 21/04/2022.
- iv. On 28/04/2022 they were ordered to file inventory and accounts by 30/05/2022.

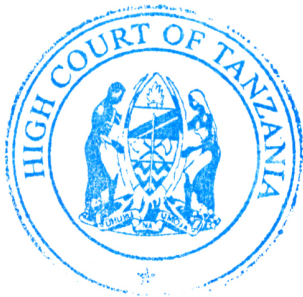
- v. On 15/06/2022 they were ordered to file inventory and account by 12/07/2022.

All these orders have been disrespected. From the described chain of events, I am satisfied that the administrator and the administratrix cannot work together. The court cannot, however, keep watching their flagrant breach of its orders. For accountability and effective administration of the estate, I must make a decision that shall ensure proper administration of the estate. Section 49 (2) of the Probate and Administration of the Estate Act (Cap. 352 R.E 2002] reads: -

*'Where it is satisfied that the due and proper administration of the estate and the interests of the persons beneficiary entitled thereto so require, the High Court may suspend or remove an executor or administrator (other than the Administrator - General or the Public Trustee) and provide for the succession of another person to the office of such executor or administrator who may cease to hold office, and for the vesting in such person of any property belonging to the estate'.*

I am satisfied that proper administration of the estate requires to have one administrator. The question that follows is whose letters of administration should be revoked? the answer is, I shall revoke the letters of the one who is more culpable for the delay.

The allegation by the administratrix that she filed inventory unsigned by the administrator because he refused to sign is undisputed. The allegation by the administrator that the administratrix is not cooperative was countered by correspondences evidence which shows that she is ready to cooperate so long as what is done is the right thing. In my view, and from the foregoing, the administrator (Amos Lwiza) is more culpable. I accordingly, revoke his letters of administration jointly issued to him and Josephine Lwiza. A fresh grant of the letters of administration be issued to Josephine Lwiza for her to proceed with the administration.



  
**I.C. MUGETA**

**JUDGE**

**12/07/2022.**

**Court: -** Ruling delivered in chambers in the presence of the administrator (Amos Lwiza) and the administratrix Josephine Lwiza and Dickson Matata, advocate for Georgina Mtasingwa (beneficiary).

**Sdg: I.C. MUGETA**

**JUDGE**

**12/07/2022.**