

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

**(DODOMA DISTRICT REGISTRY)  
AT DODOMA**

**Miscellaneous Civil Application No. 09 of 2021**

*(Originating from PC Probate Appeal No. 1 of 2020 of the High Court of Tanzania at Dodoma, Probate Appeal No. 1/2019 of the District Court of Dodoma and Probate Cause No. 46/2017 of Makole Primary Court)*

**BABY SALEHE .....APPLICANT**

**VERSUS**

**RAHIM HUSSEIN .....RESPONDENT**

**RULING**

05/4/2022 & 13/06/2022

**KAGOMBA - J**

This is a ruling on an application by Baby Salehe, (the applicant) who prayed the Court to certify that there is a point of law involved in the decision of this Court in PC Probate Appeal No. 01 of 2020, delivered by Hon. Siyani, J (as he then was) for the applicant to appeal to the Court of appeal of Tanzania.

The application which is made under section 5(2)(c) of the Appellate Jurisdiction Act, Cap 141 R.E 2019 is supported by the applicant affidavit. The application was not opposed by the respondent. Having considered the averment in the supporting affidavit, I hereby certify that there are points of law involved in the decision of this Court aforesaid, as follows;

- i. Whether it was proper for the High Court to hold that the applicant had to prove the will with original and witnesses to it be brought to

the Court while the applicant was just objecting the grant of letter of administration while the will was existing.

- ii. Whether it was legal for the High Court to uphold the appointment of an administrator only because the applicant failed to bring original will and witnesses without ordering the execution of the will to file the petition for probate and prove the will with its original and its witnesses.
- iii. Whether it was proper for the Primary Court to unilaterally appoint administratrix who had not applied for it to administer an estate which she has no knowledge of.

The application is therefore allowed. Cost in the main appeal. I certify accordingly in terms of the requirement of Section 5 (2)(c) of the Appellate jurisdiction Act, Cap [141 R.E 2019].

Ordered accordingly.

Dated at **Dodoma** this 13<sup>th</sup> day of June, 2022.



  
ABDI S. KAGOMBA  
JUDGE