

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF BUKOBA
AT BUKOBA
PROBATE AND ADMINISTRATION CAUSE NO. 04 OF 2022
IN THE MATTER OF THE ESTATE OF THE LATE CHRISANT KAMUGISHA
AND
IN THE MATTER OF APPLICATION FOR LETTERS OF ADMINISTRATION
OF ESTATE
BY MAGRETH KIIZA

RULING

09/08/2022
E. L. NGIGWANA, J.

This Ruling is in respect of the Probate and Administration Cause No.4 of 2022 filed in this court by Magreth Kiiza, the petitioner herein, petitioning for letters of Administration under section 56 of the Probate and Administration of Estates Act (PAEA) [Cap. 352 R: E 2002] of the estate of her deceased husband, the late Chrisant Kamugisha who died interstate on 11th day of June, 2020, survived by eight (8) dependents as follows; Magreth Kiiza (widow), Erick Kamugisha (son), Helga Kamugisha (daughter), Albert Kamugisha (son), Elius Kamugisha (son), Datus Kamugisha (son), Eumachius Kamugisha (son) and Crispin Kamugisha (son).

The petition is accompanied with Affidavit of the said petitioner as well as the affidavit which was deposed by heirs which evidence the affiliation of the petitioner to the deceased and consent of the heirs respectively.

What can briefly be gathered from the record is that, the Petitioner is the widow of the late Chrisant Kamugisha who at the time of his death had fixed Place of abode at Kikuku Ward Muleba District in Kagera Region; hence the properties are within the jurisdiction of this court.

It is also on the record that the value of the assets likely to come into the hands of the Administratrix is **Tshs.300,000,000/=(Three Hundred Millions only)** comprising; one house situated at National Housing-Kashai within Bukoba Municipality, One house located at Plot No.32 Block E at Muleba Town, One house situated at Mkalyambwa area within Muleba Town, One house together with its shamba located at Kikuku Village Muleba District, One Shamba Located at Kimwani Village, Muleba District, One plot found at Kaigara Muleba District, and eleven farms situated at Kikuku Village, Kikuku Ward within Muleba District

The record further has it that the said deceased was a Tanzanian and professed the Christian Religion. That initially the proceedings for appointing a legal representative of the deceased were opened in Muleba Urban Primary Court in Probate Cause No. 21 of 2020 and when the District Court of Muleba at Muleba was exercising its appellate jurisdiction ruled out that the Primary Court had no jurisdiction over this matter as the deceased during his life time did neither profess in customary nor Islamic

but save in Christianity faith, the decision which was confirmed and upheld by this court through (PC) Civil Appeal No. 47 of 2020 before Mgetta, J.

The concurrent findings of the two appellate courts as narrated above are what necessitated the petitioner to file a current petition in this court. On 25/07/2022 when this file was placed before me, Mr. Abel Rugambwa, learned advocate for the petitioner informed the court that this application was lodged on 11th day of May, 2022, and in terms of rule 76 of the Probate and Administration of Estates, 2002, the court issued a General Citation on 24/06/2022 and duly published through Nipashe **Newspaper** of 19th day of July, 2022 ISSN No.0856-0581011 at page 18.

Copies of the advertisement were also affixed at the High Court premises, and all key public places around the domicile of the deceased, such places are; Muleba District Council and Kikuku ward Tribunal.

The learned counsel added that, since 14 days' notice publication requirement have to elapse before hearing and granting the letters of administration, the learned counsel asked the court to adjourn the matter to come for hearing after the expiry of the said notice, the prayer which was duly granted.

Today; 09/08/2022 when the matter came for hearing, the petitioner's advocate stated that the period of issuing a citation had elapsed and that the preliminary stages were duly complied with, in terms of rule 75 and 76 of the Probate Rules of 2002, and owing to the reason that to date, no caveat or objection has been filed, he prayed for this court to grant the letters sought.

Now, I am called upon to determine whether the petition has merit. The duty of this court is to satisfy itself and see if the prerequisite conditions have been complied with before appointing the petitioner and granting to her the letters of administration.

In this probate cause, owing to the fact that no caveat or objection has been entered after the citation being published as stated herein calling all interested parties and those with objection to this grant to file them before 27th day of July, 2022, it is now settled and clear that the requirement of citation was duly complied with.

Another requirement which this court must satisfy itself before granting letters of administration to the petitioner is to see if the petitioner is faithful and honest to administer the estates of the deceased by collecting and distributing them to their respectful rightful heirs.

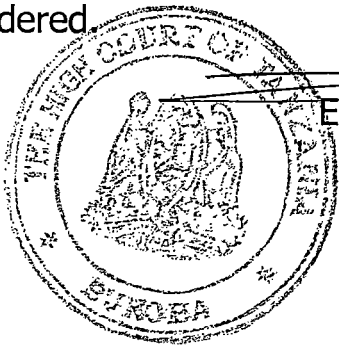
I am satisfied that the petitioner has been nominated by her clan members, the fact which is evidenced by the attached minute sheets and affidavit in lieu of consent made under Rule 71 of the Probate rules. Similarly in terms of rule 69 of the Probate Rules, the petitioner has attached a certificate as to surety's financial position who is Agnes Byombalirwa. Furthermore, the petitioner has deposed to be the truly wife of the deceased who knows the properties and heirs of the deceased properly, hence she knows the duty of the administratrix.

The last compliance which is the condition for grant of letters is that, the deceased really died due to the available proof of death certificate with S/No. 1003604018 issued on 28/07/2020, according this petition

With all above requirements being met and complied with, I am convinced that the petition attains the threshold for its grant. Without much ado, I hereby grant the letters of administration of the late Chrisant Kamugisha to Magreth Kiiza.

It is further ordered that the appointed administratrix herein should performe such duty in the dictates of law within six months from the date of this order and file an inventory in this court as per section 107 of the Probate and Administration of Estates Act, Cap. 352 (R:E 2002).

It is so ordered

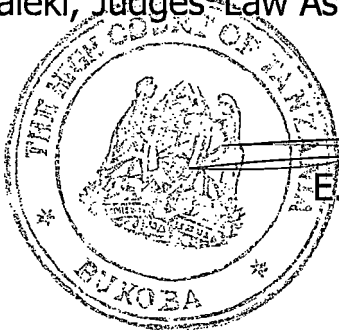


E. L. NGIGWANA

JUDGE

09/08/2022

Ruling delivered this 9th day of August, 2022, in the presence of the petitioner, Mr. Abel Rugambwa, learned advocate for the Petitioner, Hon. E. M. Kamaleki, Judges' Law Assistant and Ms. Tumaini Hamidu, B/C.



E. L. NGIGWANA

JUDGE

09/08/2022