

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(TEMEKE HIGH COURT SUB-REGISTRY)
(ONE STOP JUDICIAL CENTRE)
AT TEMEKE**

PROBATE AND ADMINISTRATION CAUSE NO. 84 OF 2022

In the matter of the estate of the Late

GABRIEL MASANJA MAKANILE.....DECEASED

AND

In the matter of application for Probate by

AGATHA DAVID SHIKILA MAKANILE.....PETITIONER

RULING

24/08/2022 & 29/08/2022

I.C. MUGETA, J

The late Gabriel Masanja Makanile died testate on 17/04/2022. He left a will which names the petitioner as its executor. The will was attested on 04/08/2019. Nobody has objected the petition after general citation in the Government Gazette of 13/08/2022 and Mwananchi newspaper of 28/04/2022. The petition, therefore, is non-contentious.

It seems that on 4/02/2020 the deceased decided to change his will. He wished his plot at Chalinze, Pwani Region to go to Leticia Makanile instead of David Shakila Gabriel Makanile. To achieve this, he interlineated his wish at paragraph 6 of the will where that item is listed.



As the petition is unopposed, I decided to confirm the validity of the will in relation to the interpolation by interviewing, on oath, Donald Kaswende who verified the petition. I required his attendance for examination under rule 59 (1) of the Probate Rules.

This rule provides:

'where there appears in a will any obliteration, or other alteration which is not authenticated in the manner prescribed by the Indian Succession Act, 1865 as applied in Tanzania, or by the re-execution of the will or by execution of a codicil, the court shall require the petitioner to produce an affidavit from any person it may think fit to show whether such obliteration, interlineation or alteration was present at the time the will was executed'.

In his evidence, Donald Kaswende said that the interlineation was not there when they attested the will. However, the other witnesses to the will and himself were present when the will was interlined. From this evidence and other documents accompanying the petition, I am satisfied that the will has been proved. In the event, I appoint Agatha David Shikila Makanile as executrix of the will of Gabriel Masanja Makanile.




I.C. MUGETA

JUDGE

29/08/2022

Court: - Ruling delivered in chambers in the presence of the petitioner and Flavian A. John, advocate, holding brief for Godfrey Ngasa, advocate for the petitioner.

Sgd: I.C. MUGETA

JUDGE

29/08/2022