

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

**IN THE DISTRICT REGISTRY OF SHINYANGA**

**AT SHINYANGA**

**PC. PROBATE APPEAL NO. 2 OF 2020**

*(Arising from Probate Appeal No. 3 of 2020 from Bariadi District Court Originating from Somanda Primary Court in Probate Objection No. 83/2019)*

**TANDA NDUKI.....APPELLANT**

**VERSUS**

**NDAMO LIGILA.....RESPONDENT**

**JUDGMENT**

1<sup>st</sup> September, 2022

**A. MATUMA, J.**

Through Probate case no. 19/2019 at Somanda Primary Court, the respondent Ndamo Ligila was appointed administrator of the estate of his deceased father Ligila Nduki.

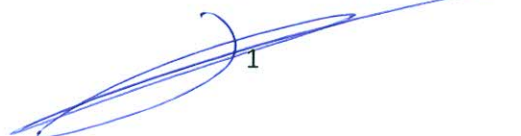
Later on through objection proceedings in Probate objection no. 83/2019 the appellant appeared in the same Primary Court objecting the respondent to have administered the farms he alleges to belong to his deceased father one Nduki Kanuda.

His objection was dismissed hence an appeal to the District Court which again dismissed the appeal for the appellant was mixing up land disputes and administration of estates.

The appellant was further aggrieved hence this appeal.

At the hearing of this appeal the appellant was present in person and the respondent was as well present in person.

Both parties being lay persons did not explain well their grounds of grievances. They concentrated in explaining dispute over land ownership.



1

Having heard the submissions of both parties and gone through the records at hand I find that this appeal is misconceived.

The appellant in both his grounds of appeal and oral submission is seeking the respondent to be revoked letters of administration contending that being administrator of the estate of his deceased father Ligila Nduki has caused him to extend into distributing the estate of Nduki Kanuda (the appellant's father) who is also the respondent's grandfather.

We cannot nullify the appointment of the Respondent as administrator of his deceased father's estate merely because in executing his duties as administrator of the estate he has extended beyond the deceased's estate. Whoever has interest in the estate allegedly trespassed by the respondent should take the appropriate measures to safeguard his interest.

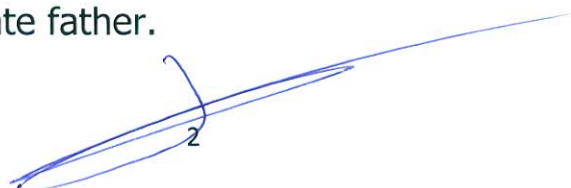
That was in fact the decisions in both Courts below as follow; The Primary Court;

*"Mahakama haikuona haja ya kujikita kwenye mgogoro wa umiliki wa mashamba kwa sababu haina mamlaka ya kusikiliza mashauri ya ardhi...."*

Then it went on observing that even though the appellant had no locus standi to claim the estate of one Nduki Kanuda;

*"Mahakama imeamua madai ya mpingaji hayana msingi kwa kuwa hana mamlaka ya kisheria (Locus standi) ya kusimamia mali za marehemu Nduki Kanuda kwa kuwa yeye siyo msimamizi wa mirathi."*

The District Court in dismissing the appeal observed that the suit premises was already divided by the village land committee whereas the appellant was given 23 acres and the late father of the respondent was given 23 acres. Therefore the respondent is administering only 23 acres which was given to his late father.



I agree with the findings of both Courts below.

In the Primary Court's records there is a decision of Village land Committee for resolution of land disputes. In that decision it was the appellant's mother and the respondent's mother who were complaining against the appellant to disown other family members their landed properties which was previously owned by Nduki Kanuda who is the father of the appellant.

In the circumstances the appellant wanted to dispossess even his own mother and now his late brother's children.

The Village Land Committee divided to him 23 acres and to the respondent's father 23 acres. This was on 30/12/2013.

Since it was the Village land Authority which divided the suit land way back in 2013 and the appellant did not challenge such distribution, the land in dispute seized to be the property of the late Nduki Kanuda.

The respondent is thus legally authorized to administer the portion which his late father got i.e 23 acres.

That being said this appeal is devoid of any merits and it is accordingly dismissed.

The respondent should file the final accounts to the Primary Court to have the probate cause closed.

The appellant should not disturb the respondent anyhow in his administration of such estate.

Given the circumstances that this is a family matter, I grant no costs.

It is so ordered.



**A. MATUMA**  
**JUDGE**  
**01/09/2022**