

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

**(IN THE DISTRICT REGISTRY OF DAR ES SALAAM)**

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 219 OF 2022**

**IN THE MATTER OF REPRESENTATION OF SWEETBERTA**

**MOHAMED, A PERSON OF UNSOUND MIND**

**AND**

**IN THE MATTER OF APPLICATION BY MARIA GORETH EVARIST**

**FOR APPOINTMENT AS AN ADMINISTRATOR OF THE ASSETS AND**

**RIGHTS OF SWEETBERTA MOHAMED, A PERSON OF UNSOUND**

**MIND**

**BY**

**MARIA GORETH EVARIST ..... APPLICANT**

**RULING**

17<sup>th</sup> August, & 8<sup>th</sup> September, 2022

**ISMAIL, J.**

This application has been preferred by the Maria Goreth Evarist, a mother of Sweetberta Mohamed, the latter of whom is a person of unsound mind. She has preferred this application under the provisions of section 19 (1), (2) and (3) of the Mental Diseases Act, Cap. 98 R.E. 2019. It seeks to move this Court to appoint the applicant to administer and manage the

assets of her daughter, on a count of the fact that the latter is of unsound mind.

The application is accompanied by an affidavit sworn by the applicant herself, setting out grounds on which the prayer for administration is based. Enclosed with the affidavit are a number of documents that serve to support the application. They include: Birth certificate; medical report and other court documents in respect of administration of the estate of which Sweetbertha is a beneficiary. The medical report from Mwananyamala Regional Referral Hospital describes Sweetbertha as a known case of epilepsy and has been on treatment at the hospital since 2008. It is reported that she is still on medication and close observation. The affidavit depones to the fact that the applicant's intention to seek an appointment is premised on the fact that rights of Sweetberta are at stake in the estate of her deceased father. The estate is yet to get an administrator after revocation of the appointment of previous administrator.

The question to be resolved in this matter is whether the application has met the requisite threshold for its grant.

Though the applicant has cited the provisions of section 19 (1), (2) and (3), the relevant provision in this case is section 24 (1), (2) and (3) of the Mental Diseases Act, Cap. 98 R.E. 2019, which provides as follows:

*"(1) Application for an order for the management and administration of the estate of a person to whom this Part applies may be made by any friend or relative or any person in whose care or charge that person is lawfully detained or by the Attorney-General.*

*(2) Every such application shall be accompanied by an affidavit setting forth the grounds upon which it is made and shall give full particulars as to the property and kindred of the person to whom it relates.*

*(3) If the application relates to a person lawfully detained as a person of unsound mind under the provisions of Part II it shall be accompanied by a certified true copy of the reception order and medical certificate issued in respect of that person."*

Going through the submission filed in support of the application, it is clear and obvious that the application is preferred by an applicant, a parent who, for purposes of the Act, serves as the relative of the patient, consistent with sub-section (1). The submission by counsel for the applicant further amplifies the depositions made in the affidavit, and provides the detail of the property intended to be placed in the hands of the applicant, and what the applicant intends to do with it. The medical report attached to the affidavit is also in compliance with the requirements laid down under sub-section (3)

above. In my considered view, the application has met the threshold for its grant. Accordingly, the same is granted.

As I grant the application, I am mindful of the powers that the Court enjoys under section 28 of Cap. 98, which provides as follows:

*"The court may make any orders which it thinks fit for the administration and management of the estate of any person to whom this Part applies and for the purpose of making provision for his maintenance and that of members of his family dependent upon him and the payment of his debts and the costs incurred by any inquiry or other proceeding under this Act or any other expenses connected with the management of his estate or arising out of anything ordered to be done by the court under the provisions of this Act."*

The foregoing provision places a responsibility on the applicant to ensure that during her tenure as an administrator of the patient's estate, she performs all what the law expects of her. The order for administration will apply from the date hereof.

It is so ordered.

DATED at **DAR ES SALAAM** this 8<sup>th</sup> day of September, 2022.



**M.K. ISMAIL**

**JUDGE**

**08/09/2022**

