

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

ARUSHA DISTRICT REGISTRY

AT ARUSHA

MISC. CIVIL APPLICATION NO. 109 OF 2021

(Originating from Probate and Administration Cause No. 8 of 2019 which is pending
in the High Court of the United Republic of Tanzania, Arusha District Registry)

JOSEPHINE SEBASTIAN LEMOYAN..... APPLICANT

VERSUS

BENJUDA HUSSEIN LEMOYA.....REPOUDENT

RULING

27/12/2021 & 4/2/2022

ROBERT, J:-

The applicant, Josephine Sebastian Lemoyan, seek to be appointed as a receiver of the estates of the late HUSSEIN OLE LAIZER, pending the grant of letters of administration in Probate Cause No. 08/2019 registered before this Court. The application is lodged under section 10 of the Probate and Administration of Estates Act, Cap. 352 (R.E 2019) and Rule 24 (1) (a), (b), (c), (d), (e) and (f) of the Probate Rules and supported by

the sworn affidavit of YEREMIA LESHILALO LAIZER, secretary of the deceased clan.

At the hearing of this matter, Mr. Peter Michael Madeleka, learned counsel appeared for the applicant whereas the respondent appeared in person without representation.

Highlighting on this application, Mr. Madeleka submitted that, the deceased, Hussein Ole lazier, died intestate on 2/10/2018 and the applicant seeks an order of this Court to be appointed as a receiver of his estate pending the grant of letters of administration. The applicant is the widow of the deceased and therefore one of the interested parties in the deceased's estate.

Submitting on the reasons for this application, he maintained that the applicant filed this application because one of the deceased's properties which is a residential house situated on Plot No. 105 Block "D" Njiro in Arusha Municipality has been invaded by unknown people who have no any interest in the said property and therefore is in danger of being wasted before it is bequeathed to the heirs. Thus, he prayed for the applicant to be appointed as a receiver pending the final determination of the main application.

The application stood unopposed by the respondent who seemed to have no issues with the appointment of the applicant as a receiver of the deceased's properties.

Section 10 of the Probate and Administration of Estates Act (supra) provides that;


"Where any person dies leaving property within Tanzania, the court may, if it appears on the application of the Administrator-General or of any person claiming to be interested in such property, or having the custody or control thereof at the time of the death of the deceased, or being at such time an attorney of the deceased, that there is danger that such property may be wasted, appoint the Administrator-General or such other person as the court thinks fit, to be a receiver of such property pending a grant of probate or letters of administration".

In the present application, the secretary of the deceased's clan stated under oath, through an affidavit filed in support of this application, that the deceased's property described as residential house situated on Plot No. 105, Block D, Njiro, Arusha Municipality is in danger of being wasted because it is trespassed by people who have no interest on the said property. He described the applicant as a person of impeccable respect and integrity whom he believe is fit and proper to be appointed as a receiver.

Considering that, this application is made in the spirit of section 10 of the Probate and Administration of Estates Act and it stood unopposed before this Court, I find no reason not to grant the prayer sought.

Consequently, I hereby appoint the applicant, JOSEPHINE SEBASTIAN LEMOYAN, to be a receiver of the deceased's property described as, Plot No. 105, Block D, Njiro, Arusha Municipality, pending a grant of probate or letters of administration.

It is so ordered.


 K.N. ROBERT
JUDGE
4/2/2022