

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF DAR ES SALAAM**

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 366 OF 2022

IN THE MATTER OF THE ESTATE OF THE LATE ELEUTHER ALPHONCE TARIMO

AND

IN THE MATTER OF APPLICATION FOR AMENDING FINAL ACCOUNTS

BY

COLUMBA TARIMO APPLICANT

(Arising from Probate and Administration Cause No. 10 of 2017)

RULING

15th and 16th September, 2022

KISANYA, J.:

The applicant, Columba Tarimo is the administratrix of the estate of the late Eleuther Alphonc Tarimo. She has moved this Court to be pleased to allow her to amend the Accounts of the Estate and substitute the name of beneficiary of the landed properties from Etna Limited to Flora Eleuther Tarimo, Robert Joseph Tarimo, Donald Tarimo and Columba Mrina Tarimo. Her application is made under rule 115A of the Probate Rules and section 95 of the Civil Procedure Code, Cap. 33, R.E. 2002. It is supported by an affidavit of the applicant. The grounds for this application are set out in the said affidavit.

Briefly stated, on 1st June, 2017, the applicant was appointed by this Court to administer the estate of the late Eleuther Alphonse Tarimo. Thereafter, she filed an inventory of the deceased's estate on 28th January, 2018. It turned out that all the beneficiaries of the estate of the late Eleuther Alphonse Tarimo desired the landed properties to be transferred to Etna Limited, a company to which they are shareholders and directors.

On 14th February, 2020, the applicant filed the Account of Estate in which all landed properties were recorded in the name of Etna Limited. However, the Registrar of Titles refused the applicant's request on assent to bequest the said landed properties to Etna Limited on the ground that the beneficiaries of the estate must be natural person. That decision prompted the applicant to file the present application.

When the matter came up for hearing, Mr. James Bwana, learned advocate appeared for the applicant who was also present in person.

Submitting in support of the application, Mr. Bwana reiterated the facts deposed in the supporting affidavit. In conclusion, he urged this Court to grant the application on the ground the prayer is in the best interest of all beneficiaries.

Having gone through the chamber summons, supporting affidavit and submission of the learned counsel for the applicant, the issue is whether there is merit in this application.

My starting point is the provision of rule 115A (a) of the Probate Rules, which enjoin the court, *inter alia*, to direct the applicant or advocate whose document is defective in substance to file a fresh document. Given the grounds deposed in the affidavit, it is clear the final account filed by the applicant is defective. In consequence, the deceased's landed properties cannot pass to Etna Limited as desired by the beneficiaries. Now that the applicant prays to amend the Accounts of Estate and considering that the amendment is aimed at passing the deceased's landed properties to the beneficiaries in lieu of Etna Limited, I agree with Mr. Bwana that the intended amendment will be in the best interest of the beneficiaries.

For the reasons I have given, I find merit in the application and grant it. Accordingly, the applicant is ordered to file the amended Accounts of Estate within fourteen (14) days from the date hereof. No order as to costs.

It is so ordered.

DATED at DAR ES SALAAM this 16th day of September, 2022.



S.E. Kisanya
JUDGE
16/09/20122