

**IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM SUB DISTRICT REGISTRY)**

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 279 OF 2022

(Arising from Probate and Administration Cause No. 40 of 2000, High Court District
Registry, Bubeshi, J)

**IN THE MATTER OF REMOVAL OF DECEASED EXECUTOR'S NAMES FROM THE
GRANT OF PROBATE OF THE ESTATE OF THE LATE KARSANDAS NANJI**

AND

**IN THE MATTER OF APPROVAL OF NATWARLAL KARSANDAS AS THE SOLE
SURVIVING IN ADMINISTRATION OF THE ESTATE
OF THE LATE KARSANDAS NANJI**

RULING

15th Sept, 2022 & 23rd Sept 2022

E.E. KAKOLAKI J.

This is an application for removal of Sunderji Nanji, Jamnaben Narond, the deceased from the granted probate of the late Karsandas Nanji by this Court on 08/02/2001, in Probate and Administration Cause No. 40 of 2000 and approve and order that, Natwarkal Karsandas is the sole surviving executor in administration of the estate of the late Karsandas Nanji. It is preferred under section 45 of the Probate and Administration of Estate Act, [Cap. 352 R.E 2012 and Rule 14(2) of the Probate Rules, 1963] supported by affidavit

of Natwarlal Karsandas and the affidavit of names dully affirmed by the applicant correcting the typing errors in the names of Natvarial Karsandas appearing in the grant of probate No. 40 of 2000 to read Natwarlal Karsandas and Natwarlal Ruparelia appearing in the passport No. GBR 124944064 as those are of one and same person. And further co,nfirming that names of Jamnaben Narod as appearing in the said grant of probate and Jamnaben Kardsandas Ruparelia appearing in the death certificate No. A00120344 issued on 17th August, 2002 are referring to the same person who is now the deceased.

At the hearing the applicant appeared represented by Mr. Victor Mhoro who relied on the affidavit in support of the application and affidavit of names to pray the Court to grant the prayers in the chamber summons as the matter was heard viva voce. Further to that, he tendered in court original death certificates of the late Karsandas Ruparelia and Sunderji Nanji Ruparelia and certified copy of the applicant's passport No. GBR 124944064 which were all admitted as exhibits PB1, collectively.

It is garnered from the applicant's affidavit that, this Court vide Probate and Administration Cause No. 40 of 2000, on 08/02/2001, granted probate to Surderji Namji, Jamnaben Narond and Natwarlal Karsandas(applicant) as

executors of the will of the late Karsandas Nanji who died on 4/10/1998 while domiciled in Dar es salaam, in which Surderji Namji and Jamnaben Narond demised too, leaving the applicant as the sole executor of the estate of the late Karsandas Nanji. That, on 25/01/2021, before the High Court of Kenya at Mombasa, vide resealing Cause No. E072 of 2012, the applicant unsuccessfully petitioned for resealing of the probate granted by this Court in Probate Cause No. 40 of 2000, so as to collect the landed property left by the deceased Karsandas Nanji at Mombasa, as the same calls for removal of deceased executors' names, hence the present application.

I have considered the submission made by the learned counsel as well as the averments in both affidavit in support of the application and affidavit for names. This Court under the provision of section 45 of the Probate and Administration of Estates Act, [Cap. 352 R.E 2002] is crowned with jurisdiction to entertain the prayers by the petitioner. It is the law, where there are more than one administrator or executor appointed by the Court and one of them dies and there is no preferred petition for his replacement, justice demands that his name be removed from the probate or letters of administration so as to leave the remaining administrator or executor with full powers to discharge his duties in the office without being questioned. In

this matter since the passing away of Surderji Namji and Jamnaben Narond on 05/01/2004 and 09/08/2001, respectively went without their replacement and given the need explained by the applicant to reseal the probate for the purpose of collection of the estate in Kenya, this Court is satisfied that it is fair and just to grant the application as prayed.

In the premises, I order that the names of Surderji Nanji and Jamnaben Narond are removed from the granted probate in Probate Cause No. 40 of 2000, dully granted by this Court on 08/02/2001 and approve and order that, the petitioner Natwarlal Karsandas is the sole surviving executor in administration of the estate of the late Karsandas Nanji.

No order as to costs.

It is so ordered.

Dated at Dar es Salaam this 23rd September, 2022.



E. E. KAKOLAKI

JUDGE

23/09/2022.

The Ruling has been delivered at Dar es Salaam today 23rd day of September, 2022 in the presence of Mr. Victor Mhoro for the petitioner respondent and Ms. Asha Livanga, Court clerk.

Right of Appeal explained.



E. E. KAKOLAKI
JUDGE
23/09/2022.

