

IN THE HIGH COURT OF UNITED REPUBLIC TANZANIA

(DAR ES SALAAM DISTRICT REGISTRY)

AT DAR ES SALAAM

MISCELLANEOUS CIVIL APPLICATION No. 74/2022

(Arising from Probate and Administration No. 7 of 2008 before Hon. Shangwe A.)

IN THE MATTER OF THE ESTATE OF THE LATE ESTHER MESHACK NDOJE

AND

IN THE MATTER OF AN APPLICATION FOR EXTENSION OF TIME TO FILE

INVENTORY BY FRANK MLEKIO MONGI (Administrator of the Estate

of the late Esther Meshack Ndoje)

Last order: 4/8/2022

Ruling date: 26/08/2022

R U L I N G

MANGO, J

The Applicant was granted letters of administration of the estate of the late Esther Meshack Ndoje by this Court via Probate and Administration Cause No. 7 of 2008. The letters dates 30th July 2008.

After being issued with letters of administration, the Applicant did not file inventory nor did he file final account of the estate as required by the law.

On 25th February 2022, the Applicant approached this Court praying for extension of time to file inventory of the estate of the late Esther Meshack Ngoje. The Application is by way of a Chamber Summons supported by an affidavit sworn by the Applicant, Frank Mlekio Mongi.

During hearing the Applicant was represented by advocate Jerry Msamanga. In his submission in support the Application, he adopted the contents of the affidavit sworn in support of the Application to form part of his submission. He submitted further that, the reason that caused the Applicants delay to file inventory for more than 14 years is ignorance of law. According to him, the Applicant after being appointed to be the administrator of the late Esther Meshack Ndoje via Probate and Administration Cause No. 7 of 2008, he was not aware of the requirement to file inventory and final accounts within 6 months and one year respectively. Aside from ignorance of the legal requirement to have the inventory and final accounts filed within specified time, the Applicant has not advanced any other reason to move this Court to grant prayers sought in the Chamber Summons.

It is trite law that ignorance of law cannot be considered to be a good ground for extension of time. In the Application at hand the Applicant cannot rely on the alleged ignorance because the letter of administration issued to the Applicant indicates clearly the requirements to file inventory and final accounts and time limit for each requirement.

The letter has the following instructions to the administrator

'The ADMINISTRATOR of the deceased estate he/she/they having undertaken to administer the said property and credits to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.'

With such clear instructions which appear at the bottom of the grant, the Applicant cannot be considered to have no knowledge of the requirement to file inventory and final accounts within six months and one year from the date of the grant as alleged in his affidavit and his advocate's submission. Despite legal requirements to have estates of the deceased administered completely within one year, ordinarily estates of deceased persons are distributed immediately after the death of the

deceased. The purpose of having the deceased estate administered within shortest time as possible is the fact that, after death, the estate of the deceased will have nobody to take charge off, as a result, it can easily be squandered at the expense of beneficiaries of the estate. Speedy administration of deceased's' estate assist the beneficiaries to have their entitled portion of the estate and smooth transition after the death of their relative.

I am of a firm view that, the Applicant has not advanced any good reason to move this Court to grant extension of time to file inventory and final accounts of the estate of the late Esther Meshack Ndoje. Ordinarily I would have dismissed this application. However, I hereby grant the Application because my refusal to extend time will be at the expense of the heirs of this estate who have been deprived of their right to enjoy the estate of their relative for so many years. If this application won't be granted, the heirs will be required to commence probate proceedings afresh which will cost them in terms of time and momentary expenses.

The Applicant has also notified the Court that he has already prepared inventory of the deceased estate and final accounts. He merely awaits for the order of this Court to have the same filed.

In such circumstances, I find it to be in the interest of justice to have the application granted as I hereby do. The Applicant should file inventory and final accounts of the deceased estate within 30 days from today. In case failure to file inventory and final accounts within the prescribed time limit, letters of administration granted to the Applicant will be revoked for failure to perform his duties as an administrator.

Dated at Dar es salaam this 26th day of August 2022




Z. D. MANGO
JUDGE