

**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. 348 OF 2021**

*(Arising from Probate & Administration Cause No. 21 of 2012)*

**IN THE MATTER OF THE ESTATE OF THE LATE**

**SIRILI WILBALD MASSAY**

**AND**

**IN THE MATTER OF AN APPLICATION FOR LETTERS OF  
ADMINISTRATION BY MARY MASSAY**

**RULING**

13<sup>th</sup>, & 28<sup>th</sup> October, 2022.

**ISMAIL, J.**

The instant application seeks to move the Court to extend time for exhibiting inventory and accounts of the deceased estate. The deceased is the late Sirili Wilbald Massay. The applicant, Mary Massay, is the widow of the deceased and an administratrix of the estate, pursuant to letters of administration granted on 18<sup>th</sup> July, 2012.

The affidavit that supports the application states that failure to exhibit or file inventory was attributed by two reasons. One, absence of the

beneficiaries, most of whom were in India and Canada for their studies. Two, that follow up of the deceased's shares in NICOL, TBL and NMB took longer than anticipated, owing to misplacement of some documents. The applicant has averred that having sorted out those issues, she is now in a position to deal with the matter.

In the submission filed in support of the application, the applicant acknowledges that section 107 (1) of the Probate and Administration of Estates Act, Cap. 352 R.E. 2019 requires that the inventory and final accounts be filed within six months and 12 months, respectively. She reiterated that inability to fulfill the requirements of the law was due to the absence of some beneficiaries and the long process in the retrieval of the documents pertaining to the deceased's stocks.

The applicant further submitted that grant of extension is a discretionary remedy which should not be denied unreasonably as doing so has the effect of stifling cases. She argued that none of the beneficiaries will be prejudiced if extension is granted. On the contrary, the applicant argued, the beneficiaries will be prejudiced if distribution of the estate is not done, as the assets will remain in the applicant's hands.

The question that follows the submission is whether the application is meritorious.

Filing of the inventory and accounts of the estate is a legal requirement under section 107 (1) of Cap. 352, and rules 106 and 107 of the Probate Rules, GN. No 369 of 1963. They require that such information be filed within the prescribed time of six months, in the case of an inventory, and one year, in the case of the accounts. The applicant has missed these timelines and the question is whether an extension is allowed. The answer to this question is found in rule 109 (1) of the Rules which provides as hereunder:

*"(1) An application for extension of time to exhibit an inventory or account shall be made by chamber summons supported by an affidavit stating the reasons for such application.*

*(2) An application under this rule shall be made before the expiry of the period within which the executor or the administrator is required by the court to file the inventory or account."*

The cited provisions guide on when the application for extension of time should be made. The requirement is that the request should be made before the expiry of the period set for filing of the said documents. My unfleeting review of the reasons cited for the request for extension tell me,

however, that circumstances of this case were such that the extension before expiry of time would not bring about the desired fruits, knowing that such extension would expire before the said beneficiaries were available from their overseas engagements. It requires a dispensation, and I find it fit to grant.

In consequence, I find the application meritorious and I grant it. The applicant is granted three months within which to file an inventory, while accounts should be filed within three months after filing of the inventory. The extension will run from the date hereof.

It is so ordered.

DATED at **DAR ES SALAAM** this **28<sup>th</sup>** day of **October, 2022.**



**M.K. ISMAIL**

**JUDGE**

**28/10/2022**

