

IN THE HIGH COURT OF TANZANIA

AT TABORA

MISC. CIVIL APPLICATION NO. 2 OF 2022

(Originating from Probate and Administration Cause No. 7/2019)

**IN THE MATTER OF THE ESTATE OF THE LATE LEONARD
SHANGALI BURETA**

AND

**IN THE MATTER OF APPLICATION FOR LETTERS OF
ADMINISTRATION BY DENIS LEONARD BURETA**

RULING

Date of Last Order: 21/09/2022

Date of Delivery: 21/09/2022

AMOUR S. KHAMIS, J.:

On 20th day of November 2020, this Court appointed Denis Leonard Bureta as administrator of the Estate of the Late Leonard Shangali Bureta Vide Probate and Administration Cause No. 7 of 2019.

On 9th day of February 2022, Denis Leonard Bureta filed the present application for extension of time within which to exhibit an inventory in respect of the estate of the late Leonard Shangali Bureta.

He also moved this Court to schedule a date within which a statement of account in respect of the estate could be displayed.

The application was made by way of Chamber Summons under Rule 109(1) of the Probate Rules G.N No. 10 of 1963 and Section 95 of the Civil Procedure Code, Cap 33, R.E 2019.

The Chamber Summons was supported by an affidavit sworn by Denis Leonard Bureta.

The application was uncontested and therefore no counter affidavit was filed.

At the time of hearing, Mr. M.K. Mtaki, learned advocate of this Court, appeared and orally submitted in favour of the application.

Mr. Mtaki adopted contents of the affidavit in support of the application and contended that sufficient cause for the delay was shown.

The issue is whether the application discloses sufficient reasons for this Court to exercise its discretion and extend time for filing an inventory and account of the estate.

Rule 109 (1) of the **PROBATE AND ADMINISTRATION OF ESTATES RULES, G.N. NO. 10 OF 1963, G.N NO. 107 OF 1963 AND G.N NO. 369 OF 1963**, which is briefly referred to as the Probate Rules, provides that:

“An application for extension of time to exhibit the inventory or account shall be made by Chamber Summons supported by an affidavit stating the reasons for such application”.

Section 107 of the **PROBATE AND ADMINISTRATION OF ESTATE ACT, CAP 352 R.E 2019** provides that an executor or

administrator of the estate, shall exhibit in Court an inventory containing a full and true estimate of all the property in possession and all the credits, and all the debts owing by any person to which the executor or administrator is entitled in that character, within six (6) months from the grant of probate or letter of administration.

Section 107(1) of the **PROBATE AND ADMINISTRATION OF ESTATES ACT** (supra) further provides that within one year from the grant or within such further time as the Court may from time to time appoint, the executor or administrator of the estate shall exhibit an account of the estate showing the assets which have come to his hands and in the manner in which they have been applied or disposed of.

In **TRANSPORT EQUIPMENT LTD V D.P VALAMBIA, CIVIL CASE NO. 210 OF 1989** (unreported) this Court (Rubama, J as he then was) held that for the Court to exercise its discretion in favour of the applicant, the applicant must adduce sufficient cause to move it to that end.

In paragraph 3 of the applicant's affidavit in support of the Chamber Summons, reasons for the delay were articulated, thus:

- i. *"That some of the properties such as monies in banks accounts required critical verifications and confirmation of the details of both the late Leonard Shangali Bureta and his heirs hence it consumed time to obtain the necessary approval from the respective banks and other financial institution.*

- ii. *That in the course of collecting the properties of the late deceased person, I encountered difficulties whereby some institutions and other responsible individuals demanded that they require specific instruction from a Primary Court which according to them is the only Court which deals with probate matters. Thus it took me sometime to explain to them and eventually they came to understand by which much time had been consumed in the course.*
- iii. *That some of the deceased properties are scatted in various places in the country thus I was required to travel to various places under financial constraints as most of the deceased's bank account were closed immediately following his death".*

Having examined the application and particularly paragraph 3 of the applicant's affidavit as reproduced above, I am satisfied that sufficient causes for delay to file an inventory and account were shown as correctly submitted by Mr. Mtaki.

Consequently, the application is granted. Let the applicant file an inventory within thirty (30) days and account within sixty (60) days from the date of delivery of this ruling.

It is so ordered.



AMOUR S. KHAMIS

JUDGE

21/09/2022

ORDER

Ruling delivered in Chamber in presence of Mr. M.K. Mtaki,
advocate for the applicant.

Right of Appeal Explained.




AMOUR S. KHAMIS

JUDGE

21/09/2022