

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MWANZA DISTRICT REGISTRY

AT MWANZA

PROBATE AND ADMINISTRATION CAUSE No. 05 OF 2020

**IN THE MATTER OF THE ESTATE OF THE LATE CHARLES EMMANUEL
RUSIZOKA alias CHARLES RUTAJUMALA @ (CHARLES KIZINJA/ CHARLES
KANTIMA)**

AND

**IN THE MATTER OF APPLICATION FOR GRANT OF LETTERS OF
ADMINISTRATION BY**

RODA KOKUMANYA ISHENGOMA.....PETITIONER

AND

PULCHERIA EMMANUEL RUSIZOKA..... 1st CAVEATOR

ADEN CHARLES..... 2nd CAVEATOR

MARY EMMANUEL RUSIZOKA3rd CAVEATOR

ALLEN CHARLES4th CAVEATOR

PROF. FELICIAN BARONGO.....5th CAVEATOR

DIDACE DOMICIAN KAZINJA6TH CAVEATOR

PROSCOVIA EMMANUEL RUSIZOKA 7TH CAVEATOR

STELLA EMMANUEL TAFISA 8TH CAVEATOR

JUDGMENT

31/8/2022 & 13/10/2022

ROBERT, J:-

The Petitioner, Roda Kokumanya Ishengoma, seek to be granted letters of administration of the estate of her late husband, Charles Emmanuel Rusizoka, who died intestate at Kamanga Medics Hospital, Nyamagana district in the region of Mwanza on the 7th day of July, 2020.

According to the petition, the applicant was nominated to apply for appointment as administratrix of estate of the deceased through a clan meeting held on 13th day of July, 2020 at Bwoki village, Misenyi district in Kagera region. It was alleged that, during his lifetime the deceased had a fixed place of abode at Ilemela district, Mwanza region, he is survived by his widow and seven daughters namely, Robina Emmanuel Charles, Lina Charles Emmanuel, Jenniffer Charles Emmanuel, Jackeline Charles Rusizoka, Linda Shubi Charles, Cleopatila Kantima Charles and Grolia Charles Emmanuel who are the heirs in this petition.

The applicant believes that the estimated value of the assets which are likely to come to her hands as administratrix of estate is TZS 290,000,000/= comprising of:-

- i. Family/Residential House at Plot No. 112 Block 'LL' Kiloleli 'A' Street Ibungilo Ward, Ilemela District in Mwanza Region;
- ii. Residential /commercial building located at Plot No. 153 Pamba 'A' street Pamba ward, Kenyatta Road, Nyamagana District in Mwanza Region;
- iii. Residential/commercial building at Plot No. 29 Block 'T' Pamba 'B' street / Sheikh Amin Street, Pamba ward, Kenyatta Road Nyamagana District in Mwanza Region;
- iv. Residential/commercial area located at Plot No. 108, Block 'C' CT No. 85492, LR Mwanza L.O No. 648117 Nyangh'omango street Nyangh'omango ward, Shinyanga Road Misungwi District in Mwanza Region;

- v. residential / commercial area located at Plot No. 510 Block 'C' Nyangh'omango street Nyangh'omango ward, Shinyanga Road, Misungwi District in Mwanza Region;
- vi. Residential/commercial area located at Plot No. 299 Block 'C' CT No, 80676, LR Mwanza L.o No. 542151 Nyamwikomilo Street, Shinyanga Road, Misungwi District in Mwanza region;
- vii. Residential/commercial area located at Plot No. 298 Block 'C' CT No. 80681, LR Mwanza L.o No. 542150 Nyamwikomilo Street, Shinyanga Road Misungwi District in Mwanza Region;
- viii. Residential / commercial building located at Plot No. 45 CT No. 81274 LR Mwanza L.O No. 665256 kyakailabwa nyanga ward, bukoba municipality within Kagera Region;
- ix. Family / residential house located at Bwoki Village, Bugandika Ward, Misenyi District within Kagera Region;
- x. Unsurveyed land within one residential house located at Msumbiji Street – Nyasaka, Ilemela District in Mwanza regional;
- xi. Shamba la miti ya mbao lililoko Kijiji cha Bwoki, Kata ya Bugandika, Wilaya ya Misenyi ndani ya Mkoa wa Kagera ukubwa wa nusu heka (1/2);
- xii. Unsurveyed 1 ½ acres farm located at Igombe Ilemela District in Mwanza Region;
- xiii. Unsurveyed farm with 32 meters on both sides located at nyanembe street Buhongwa ward Nyamagana District in Mwanza Region;
- xiv. One motor vehicle Toyota Rav4 with registration No. T 632 CFC;
- xv. Account No. 96040100000223 from Bank of Baroda named Charles Emmanuel Rusizoka;
- xvi. Account No. 96040200000011 from Bank of Baroda with the name of Kantima Investment Limited;

xvii. Account No. 31110001615 from NMB Bank with the name of Charles Rutajumala Rusizoka;

The petition is contested by eight caveators named above on grounds that:- first, the petitioner is not trusted and segregates the children of the deceased; secondly, the petitioner is self-appointed and squanders the rent collected from the deceased's properties; thirdly, the petitioner included the houses of other wives of the deceased in the list of properties of the deceased while the children of the said wives are not listed as heirs; fourthly, the petitioner included a house in Plot No. 153 Block 'T' Kenyatta Road and Kantima Bank Account in the list of the properties of the deceased while she knows that the said properties are not the personal properties of the deceased; and eighth, that the other children of the deceased were not listed such as Aden Charles, Alen Charles, Caroline Charles, Catherine Charles, and Pulcheria Emmanuel (deceased mother)

At the commencement of the hearing of the suit (in terms of Section 52 (b) of the Probate and Administration Act Cap 352 (R.E. 2019), the court framed three issues for determination:

1. Whether the petitioner is fit for appointment as an administratrix of the deceased's estate.

2. Whether all beneficiaries of the estate have been listed as heirs
3. Whether properties listed in the petition constitute all the properties that form the estate of the deceased and they are all the deceased assets.
4. To what relief are the parties entitled?

At the hearing of this matter, the petitioner was represented by Messrs. Geoffrey Kishosha & Kassim Gila, learned counsel whereas the caveators enjoyed the legal service of Ms. Neema Massame learned counsel.

To establish her case, the petitioner lined up four witnesses namely, Theopista Emmanuel Rusizoka (PW1), Rhobina Charles Emmanuel (PW2), Rhoda Kokumanya Ishengoma (PW3), and Ramadhani Hassan Nauja (PW4) who testified and tendered a number of exhibits including; the affidavits regarding names which were admitted collectively as exhibit P1; the deceased's death certificate admitted as exhibit P2; Minutes of the Clan Meeting admitted as exhibit P3; Birth Certificate for Jackline, Kantima and Linah which were admitted as exhibits P4, P5 and P6 respectively; and the Parentage test Report – DNA Profiling which was admitted as exhibit P7.

On the defence side, eight witnesses testified namely, Aden Charles Emmanuel (DW1), Stela Emmanuel Tafsa (DW2), Didas Domitian Kazinja (DW3), Pulcheria Emmanuel Mutakayana (DW4), Mary Emmanuel Rusizoka (DW5), Prof. Felician Barongo Kazinja (DW6) and Justus Justinian Kazinja (DW7). The defence tendered the certificate of birth of Catherine Charles and Caroline Charles which were admitted as exhibit D1 collectively.

Starting with the second issue which seeks to establish whether all beneficiaries of the estate have been listed as heirs. According to the petition, the deceased's heirs are mentioned as, his widow Roda Kokumanya Ishengoma (the Petitioner) and seven daughters one of whom is said to have been born out of the wedlock and six born within the wedlock namely; Robina Emmanuel Charles, Lina Charles Emmanuel, Jenniffer Charles Emmanuel, Jackeline Charles Rusizoka, Linda Shubi Charles, Cleopatra Kantima Charles and Gloria Charles Emmanuel.

The Caveators' claim is that the petitioner has segregated other children of the late Charles Emmanuel Rusizoka who are born by other wives of the deceased namely Aden Charles, Allen Charles, Caroline Charles, and Catherine Charles as well as the deceased's mother, Pulcheria Emmanuel by excluding them in the list of beneficiaries in the deceased's estate. In her counter-affidavit the Petitioner maintained that,

she is not aware of any marriages between her late husband and other women. Further to that, there is no any heir in her late husband's estate who is not included in the list of beneficiaries and Caroline Charles and Catherine Charles who are alleged to be the children of her late husband are not his children due to DNA test which was conducted before the death of the deceased Charles Emmanuel Rusizoka. She also stated that, Aden Charles is also not the child of the late Charles Emmanuel Rusizoka for lack of sufficient proof to establish that the deceased is the biological father. She suggested that, for this issue to be legally resolved the only alternative is for the Court to order that DNA test be conducted in order to ascertain if the deceased was the biological father of the said children.

Evidence adduced by PW1, PW2 and PW3 stated that the marriage between the late Charles Emmanuel Rusizoka and the Petitioner was blessed with six children who are Rhobina, Linda, Lina, Jenifer, Jackline, and Kantima. They stated further that, the late Charles Emmanuel Rusizoka had another child by the name of Gloria who was born out of wedlock. The Petitioner who testified as PW3 tendered birth certificates of Jackline, Kantima and Lindah which were admitted by the Court as exhibit P4, P5 and P6. She maintained that her late husband introduced her to Gloria Charles as the only child born out of wedlock. Thus, the other children claiming to be born out of wedlock should be subjected to a DNA

test or they should bring evidence to prove that they are biological children of the late Charles Emmanuel Rusizoka.

There is also evidence adduced by PW4 who introduced himself as a certified Government Chemist. He informed the Court that in April, 2020 he received samples for DNA examination from Mwanza zonal office. The samples were attached with a letter from RFA International Attorneys asking for DNA test in order to justify or establish parenthood of twin children namely Catherine and Carolyne. He stated that, the samples were taken from the said twins and two persons namely, Charles Emmanuel Rusizoka who is the alleged father and one Stela Mugabyoso who is the alleged mother. According to him, the DNA findings revealed that Charles Emmanuel Rusizoka is not the biological father of Carolyne and Catherine whereas Stela Mugabyoso is the biological mother of both Carolyne and Catherine. He informed the Court that on 24th April, 2020 he prepared the DNA Parented Test Report which was sent to their zonal office in Mwanza.

The DNA Parented Report was admitted by the Court as exhibit P7 despite the objection raised by the learned counsel for the Caveators on grounds that, first, it was a scanned copy and therefore, according to her, it is an electronic document to which the tenderer should file a certificate of authenticity. Secondly, since it is a scanned copy, it is a photocopy to

which the petitioner was required to issue a notice under section 68 of the Evidence Act and thirdly, that the report is not complete because it had only two pages instead of the normal four pages of the DNA report. The Court rejected the objections as there was no proof that the document was a scanned copy or incomplete document as alleged by the learned counsel.

On their part, the Caveators brought evidence to controvert the petitioner's position. DW1, Aden Charles Emmanuel informed the Court that, he is the first born of the late Charles Emmanuel Rusizoka. He stated that his mother Maisara Juma Ramadhani was married to the late Charles Emmanuel Rusizoka in Islamic marriage before marrying the petitioner. The two of them were blessed with two children who are Aden Charles and Allen Charles. He maintained that the Petitioner knows the two children because prior to their mother's death in 2013 they once lived with the Petitioner. He mentioned that the petitioner never loved them from the beginning and had always denied them. He stated that all the deceased relatives including his uncles knows about them and he was the one who took the late Charles Emmanuel Rusizoka to Dar es salaam when he fell sick in 2019. He informed the Court that the late Charles Emmanuel Rusizoka was married to five women.

DW2, Stela Emmanuel Tafisa, informed the Court that she was married to the late Charles Emmanuel Rusizoka on 19th October, 2015 in a customary marriage and they managed to get two children with him namely Catherine Charles and Caroline Charles. The two children are twins who were born on 21st March, 2017. The Birth Certificates of the two children were admitted in Court as exhibit D1 collectively. She also informed the Court that the late Charles Emmanuel Rusizoka also married her younger sister Justa Tafisa, who was living with them, in a customary wedding on 7th August, 2018.

DW3, Didas Domitian Kazinja who is the younger brother of the late Charles Emmanuel Rusizoka's father informed the Court that the late Charles had five women. His first wife was Maisara Musa, he was married to her in 1979 in Islamic marriage and they had two children namely Aden and Allen. After that, he was married to the Petitioner with whom they managed to get six children. After that, he had a conflict with his wife and told DW3 that he was married to the woman by the name of Fatuma Malobe with whom they had a child by the name of Glory. Thereafter, he got married to another wife and managed to have two children namely, Carolyne and Catherine. At the time of his death the deceased was living with his last two wives because he was not in good terms with the

petitioner and the two wives were the ones who took care of him when he was sick.

DW4, Pulcheria Emmanuel Mutakayana who is the biological mother of the late Charles Emmanuel Rusizoka recounted that during the lifetime of his late son, he was married to more than five wives. She stated that the first wife of Charles died when she had two children with Charles. She stated that Charles was also married to the Petitioner with whom they had six children. She forgot the name of the third wife but remembered that she had two children with the late Charles. She also didn't remember the name of the fourth child but she is aware that the fourth wife had one child with Charles. She also informed the Court that Charles got married to the fifth wife but they were not blessed with any child. She maintained that Charles showed her all of these children during his lifetime and therefore she knew them as her grandchildren.

DW5 who is the younger sister to the late Charles Emmanuel Rusizoka informed the Court that, the late Charles was married to five wives. The first wife was Maisara who was followed by Rhoda (the Petitioner), Fatuma, Stela and Jesca. Her testimony was corroborated with that of DW6 who went further to inform the Court that although the late Charles had eleven children in total not all children were mentioned in the list of beneficiaries to his estate. He stated that, the petitioner listed her

children with Charles only while the two sons of the first wife who are Aden and Allen and the twin children born by other another wife of Charles were not listed as beneficiaries.

From the evidence adduced, there is no dispute that the Petitioner was married to the late Charles Emmanuel Rusizoka in Christian rites and their marriage was blessed with six children who, together with their mother, are entitled to inherit the property of the deceased as legal heirs.

The Court is also convinced by the evidence adduced by the deceased's mother (DW4), uncle (DW3) and sibling (DW5) that prior to the late Charles' marriage with the Petitioner, he was married to a woman by the name of Maisara Juma Ramadhan, who is now dead, with whom they had two children namely Aden Charles and Allen Charles. As family members the said witnesses are in a better position to know the deceased's life prior to his marriage with the Petitioner. The Court did not find any reason, from the evidence adduced, for the deceased's family to fabricate a story about the deceased's first marriage with Maisara and the children born out of that marriage. Their testimony is corroborated with that of DW1 and DW6 which shows that the deceased had a relationship with Aden Charles (DW1) who is said to be the first child born in his first marriage with Maisara.

In the case of **Goodluck Kyando v. Republic** [2006] TLR 363 at page 366 the Court decided that every witness is entitled to credence and must be believed and his testimony accepted unless there are good and cogent reasons for not believing a witness.

In the present case, the Court finds no reason not to believe the evidence adduced. If the late Charles lived with Maisara as husband and wife and the two of them got blessed with two children whom he introduced to the members of his family including his mother then the said children are entitled to inherit in the estate of their late father.

Coming to the issue of twin children, Catherine and Caroline, who are alleged to be the children born by Stela Emmanuel Tafisa during his marriage with the late Charles Emmanuel Rusizoka. Although evidence adduced by DW2 indicates that the late Charles got married with the twin's mother in a customary wedding, it is not disputed that at the time of this marriage, the deceased was still married to the Petitioner in a Christian marriage and therefore he could not have married DW2 legally. However, considering the body of evidence indicating that before his death the late Charles Emmanuel Rusizoka was living with DW2 as his wife, whether lawfully or not, and the evidence adduced by DW4(Charles' mother) that the deceased introduced DW2's twin children (Catherine and Caroline) to her as his children and the fact that members of the family, including DW3

and DW5, considered the said children as Charles' children during his lifetime, then unless there is evidence to the contrary, the Court considers the said children to be the biological children of the late Charles Emmanuel Rusizoka and they have same right as legal heirs in their father's estate even if they are born out of wedlock. Section 10 of the **Law of the Child Act**, Cap 13 R.E 2019 provides that:

"A person shall not deprive a child of reasonable enjoyment out of the estate of a parent."

As for the parentage test – DNA profiling in respect of the said children, Catherine and Caroline, this Court has examined the evidence adduced by PW4 and exhibit P7 which established that the chances of the late Charles Emmanuel Rusizoka to be the biological father of the said twin children is zero. This evidence was disputed by DW2 who stated that she had never done a DNA test to her children or husband and had never been called anywhere to take samples with her children for DNA purposes. She insisted that the deceased is the biological father of her children.

Evidence adduced reveals that PW4 who tendered exhibit P7 was involved in the alleged DNA process in Dar es salaam after receiving samples from Mwanza Zonal Office. However, evidence adduced is silent on how the samples used in the DNA profiling were taken from the individuals who are subject to the said examination to Mwanza zonal office

which allegedly transferred the said samples to the Government Chemist in Dar es salaam. In the absence of evidence indicating if and how the samples used for DNA profiling were taken from the twin children, their mother (DW2) and the late Charles Emmanuel Rusizoka, this Court finds that, there is lack of connection between the alleged DNA findings and the individuals against whom the alleged DNA findings are made. In the circumstances, the Court considers it unsafe to rely on the said findings against the individuals mentioned in the said DNA report.

On the foregoing, this Court having made a finding that the four children excluded in the list of heirs namely, Aden, Allen, Catherine and Caroline, are the biological children of the late Charles Emmanuel Rusizoka, the Court proceeds to hold that the said individuals have a right in the property of their late father and therefore they deserved to be part of the listed heirs in the estate of the deceased. That said, this Court holds that, the legal heirs of the deceased Charles Emmanuel Rusizoka who are missing in the list of heirs are: Aden Charles, Allen Charles, Catherine Charles, Caroline Charles and Pulcheria Emmanuel (the deceased's mother).

Coming to the third issue, whether properties listed in the petition constitute all the properties that form the estate of the deceased and they are all the deceased assets. It is alleged by caveators that the list of

deceased properties filed by the Petitioner contains the properties which do not constitute part of the deceased estate.

First, the caveators alleged that the petitioner included a house on Plot No. 153 Block "T" Kenyatta Road popularly known as Kantima Hotel in the list of the deceased's properties while she knows that the said house is not the personal property of the deceased. They also alleged that the Petitioner is collecting money from Kantima hotel and City lodge while knowing that it is not part of the estate of the deceased.

The Petitioner (PW3) informed the Court that, the deceased Charles Emmanuel Rusizoka has 70% shares in Kantima business and building which he got after the death of his late father when the administrator of the estate was Deogratias Rusizoka. On her part, the deceased's mother (DW4), testified that, Kantima hotel building is her property, she bought the land together with her late husband and built the said hotel and she is the administratrix of her husband's estate. Ownership of the land is still in her husband's name and the ownership documents have not been changed. She stated further that, her son Charles used to work in that hotel even before he got married to the petitioner. However, when Charles died the Petitioner took possession of the said hotel.

DW6 informed the Court that, maintained that the petitioner cannot claim ownership of the Kantima hotel given that the appointment of Deo

Fabian Rusizoka, the administrator of the estate of Emmanuel Rusizoka (Charles' father) who distributed Kantima hotel to Charles, was nullified by the High Court and all the distributions made by him in the estate were equally nullified and the Court ordered the distributions to be made afresh. Thereafter, the Court appointed Charles' mother (DW4) and the late Charles Emmanuel Rusizoka as administrators of estate.

From the evidence adduced, it appears to this Court that Plot No. 153 Block 'T' Kenyatta road and the building which houses Kantima hotel is the property of the late Emmanuel Rusizoka Kazinja (Charles's father) and DW4 is the administratrix of that estate. Therefore, since the said property constitute part of the properties of the late Emmanuel Rusizoka Kazinja which is administered by his wife (DW4), this Court considers it appropriate for the issues on distribution of the properties in the estate of the late Emmanuel Rusizoka Kazinja to be raised and determined in the proceedings involving that estate. The properties in the estate of the late Emmanuel Rusizoka Kazinja cannot constitute part of the properties of the late Charles Emmanuel Rusizoka unless it is established that the said properties were already distributed to the late Charles Emmanuel Rusizoka. Unfortunately, the petitioner failed to provide that proof.

In their submissions the caveators through their lawyer alleged further that in item No. 10 of the listed properties of the deceased, the

petitioner listed the house built on unsurveyed land which is the property of one Fatuma Malebo and not the property of the deceased. Upon perusal of the said list, this Court noted that the property listed as item No. 10 in the list of deceased's assets is unsurveyed land with one residential house located at Msumbiji street, Nyasaka, Ilemela District in Mwanza region. It is not clear if the property cited by the caveators is the same property listed by the petitioner. None of the caveators claimed to be the owner of the said property and the said Fatuma Malebo is not one of the parties in this matter.

The Court noted further that, DW2 sought to establish that a house located in unsurveyed land at Nyangwi Street, Buhongwa in the name of Justa Tafisa is the personal property jointly owned by her and her sister Justa Tafisa. However, upon perusal of the listed properties of the deceased, it is clear that this is not one of the properties listed by the petitioner and there was no issue regarding this property.

That said, this Court holds that the only property in the list of properties of the deceased which, based on the evidence adduced, do not constitute part of the deceased's estate is the house located in Plot No. 153 Block 'T' Kenyatta Road which is listed in item No. 2 of the list of deceased's properties.

I will now proceed to make a determination on the first issue, whether the petitioner is fit for appointment as an administratrix of the deceased's estate. It is undisputed that the deceased died intestate therefore, the petitioner as a legal wife of the deceased has interest in the estate of the deceased and would under ordinary circumstances be entitled to a grant of letters of administration of his estate under section 33(1) of the Probate and Administration of Estate Act, Cap. 352 (R.E.2019).

However, in this matter eight caveators came up against the appointment of the petitioner as administratrix of estate of the deceased based on a number of reasons ranging from the allegations that the petitioner conducted unlawful clan meeting which proposed her for appointment as administratrix of estate, excluding some of the deceased's children from the list of heirs, listing of properties that do not belong to the deceased into the deceased's properties, being untruthful, unfaithful and biased.

DW1 who claims to be first child of the deceased informed the Court that she opposes the appointment of the petitioner because she is not truthful as she deliberately decided not to include four of the deceased's children in the list of heirs. He informed the Court that if the petitioner is appointed as administrator there should be another person who is

appointed with her to administer the estate. His testimony was amplified with that of DW2 who claimed to be the wife of the deceased and a mother of twin children Caroline and Catherine who are excluded from the list of heirs.

DW3 who is the younger brother to the deceased's father informed the Court that, at the time of his death the deceased was living with his last two wives because he was not in good terms with the petitioner. He recounted how the Petitioner did not cooperate well with the deceased's family including during the funeral of the deceased which made the burial of the deceased not to be done in the family cemetery. He objected to the appointment of the petitioner because she is biased against some of the children of the deceased, she is a liar as she doesn't recognize other wives of the deceased, she is collecting the deceased's properties but she is not helping his children, she is not giving assistance to the deceased's mother while the projects are family projects.

The deceased's mother (DW4) informed the Court that she recognizes all the children including the ones which the petitioner excluded from the list of heirs to be Charles' children since Charles introduced them to her. She also objected to the inclusion of the Kantima hotel in the estate of the late Charles saying that Kantima hotel is her property with her late husband. She stated that Charles her son used to

work in that hotel during her lifetime but the petitioner rushed into the hotel and took possession of it after the death of Charles.

Similarly, DW5 who is the younger sister to the deceased objected to the appointment of the petitioner on the grounds that she is not truthful, she is biased and not faithful. She stated that she is not faithful because after the death of Charles she appointed herself as the administratrix of estate and took possession of her parents' houses including Kantima house and the other house located at Nera street, Mwanza where she started to collect rent. She also alleged that the Petitioner is collecting funds from the estate and using it with her children only leaving other children of the deceased without help. She is also not helping the deceased's mother or other wives of the deceased. She insisted that if the petitioner is appointed as administratrix of estate she will not do justice to the other wives of the deceased or their children because she doesn't recognize them.

Further to that, DW7 informed the Court that the alleged meeting which purported to propose the petitioner as the administratrix of estate of the deceased did not take place because normally their clan meetings take place at a place where he is residing and that did not happen. He stated that the first child of the late Charles went to their place and asked his brother one Mathias Talazias to sign the alleged Minutes of the clan

meeting (exhibit P3) after that he gave him TZS 10,000/-. After that some of his other relatives namely James Celestine Kazinja and Deogratias Rwegoshora Kazinja also signed the said minutes and received TZS 10,000/- each. After that, his brother asked him to also write his name and sign the document but he refused because he didn't see the meeting taking place.


From the evidence adduced, it is apparent that the petitioner and caveators are not in good terms. There is a clear concern on the part of the caveators regarding the process of nomination of the petitioner for appointment as the administratrix of estate as the alleged clan meeting is considered to have been conducted in exclusion of the close relatives of the deceased such as his mother and siblings. The Petitioner is also considered to be biased, untruthful and unfaithful which raises concern on the part of the deceased's family about the welfare of the deceased's children who are not the biological children of the petitioner. This Court is aware that the duties and functions of the administrator of estate involve various aspects of rights and obligations affecting those involved in an estate this requires a person to be appointed as administrator to be trusted to work in the best interest of those involved in the estate. In the circumstances, this Court considers the petitioner is not fit for appointment as an administratrix of the deceased's estate.

In the circumstances and for the best interest of the heirs, beneficiaries, and the estate itself, the court appoints the Administrator General to administer the estate of the late Charles Emmanuel Rusizoka in terms of Section 5 (1) (e) of the Administrator General (Powers and Functions) Act, Cap. 27 (R.E.2019)

As a consequence, the Court orders the Administrator General to collect, distribute and pay off the debt of the deceased (if any) and file inventory before this court within six (6) months from the grant of the letter of probate and administration according to Section 107 of the Probate and Administration of Estates Act, Cap. 352 (R.E.2019)

It is so ordered.




K.N.ROBERT
JUDGE
13/10/2022