

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

[IN THE DISTRICT REGISTRY OF ARUSHA]

AT ARUSHA

PROBATE AND ADMINISTRATION CAUSE No. 03 OF 2022

**IN THE MATTER OF THE ESTATE OF THE LATE AMANI ELISABETH YAKOBO
MGANI *alias* AMANI YAKOBO MGANI**

AND

**IN THE MATTER OF THE PETITION FOR PETITION FOR LETTERS OF
ADMINISTRATION BY RACHAEL NANKWALE MGANI – THE PETITIONER**

AND

**IN THE MATTER OF THE CAVEAT BY MARIAM ELIFURAHA SINGO-
CAVEATOR**

JUDGMENT

21st & 24th November 2022

TIGANGA, J.

In this case Rachael Nankwale Mgeni petitioned for the Letter of Administration of the estate of the late Amani Elisabeth Yakobo Mgeni *alias* Amani Yakobo Mgeni hereinafter, the deceased. From the evidence, the deceased died intestate on 14th February 2021 as exhibited by the certificate of death which was attached to the petition. According to the petition the deceased left surviving him, the following four children, two daughters namely Rachael Nankwale Mgeni (the petitioner) and Leah

Nyusu Mgeni, as well as two sons namely Mrero Amani Mgeni and Sangiwa Amani Mgeni and a widow Miriam Elifuraha Singo. In the petition, Rachael Nankwale Mgeni (the petitioner) herself as the biological daughter of the deceased while the Caveator has been proved to be a legal wife of the deceased.

In the petition, the petitioners listed the following assets to form part the estate of the deceased, (i) three plots of land that are joined located at Sakina Area in Arusha, (ii) a plot of land located at Kwembe Dar es Salaam, (iii) a motor vehicle with registration No. T. 990 CQN make Toyota Land Cruiser Prado, (iv) a motor vehicle with registration No. T.478 AWQ Make Toyota Hiace, (v) A bank account at CRDB Bank, (vi) A bank Account at NBC Bank, (vii) A bank Account at KCB Bank, (viii) A bank Account at Diamond Trust Bank, (ix) A bank Account at Akiba Bank, (x) A bank Account at ABC Bank, (xi) A bank Account at FNB Bank- Gaborone Botswana, and (xii) A bank Account at Lombard Bank – Channel Island.

It was also averred in the petition that the deceased was a Tanzanian and had his place of abode in Arusha City within the jurisdiction of the court. Together with the petition, there was filed an Administrator's Oath, Certificate of surety as to financial position, Affidavit as to domicile, Administration bond with surety and the Consent of the heirs.

Following that petition, Miriam Elifuraha Singo filed the caveat in terms of section 58 of the Probate and Administration of the Estate Act [Cap. 352 R.E 2002]. Following that caveat, the petitioner filed the application for citation for Caveator in terms of section 59 (2) of the same law. For the Caveator to enter appearance and when the caveator entered appearance in terms of section 59(3) they did not support the petition, instead, they objected the appointment of the petitioner. Therefore, turned the matter to be contentious. The proceedings took, as nearly as may be, the form of a suit in which the petitioners for the grant became the plaintiff and those who opposed the proceeding became the defendants. Having taken that shape, the court set the case for first pre trial conference, but before the same was conducted parties asked for time to try and settle out of court. Having been given such a chance, on 21st November, 2022 both counsel to wit, Mr. Moses Mahuna for the petitioner and Ms. Rachael Mwainyekule, for the respondent informed the court that parties have agreed and came up with the following terms which they asked the court to adopt as the terms of settlement;

- i. That, the plaintiff/petitioner be appointed as the Administratrix of the estate of the deceased.

- ii. That, during the time between this order and when the estate will be distributed and ultimately the closure of the administration process, the Administratrix should maintain the defendant who is the wife of the deceased to the tune of Tshs. 500,000/= per month.
- iii. That, the defendant/respondent be allowed to collect and use her salon items which she has been using in her salon business to continue using the same in her said business.
- iv. The cost of this suit be born and settled from the estate of the deceased.

Now, basing on the terms of settlement by the parties which were presented and recorded in the presence of the parties in person, I thus find as follows;

- (a) That, the plaintiff/petitioner is hereby appointed the Administratrix of the estate of the deceased the late **Amani Elisabeth Yakobo Mgeni** *alias* **Amani Yakobo Mgeni**.
- (b) That, from the date of this order to the finalization of the administration process by filing inventory and final account, the Administratrix should maintain the defendant/respondent who is

the wife of the deceased to the tune of Tshs. 500,000/= per month.

- (c) That, the defendant/respondent be allowed to collect and use her salon items which are in the custody of the Administratrix for her use in her salon business.
- (d) The cost of this suit be born and settled from the estate of the deceased.
- (e) The Administaratrix should collect the estate and within five months from the date of appointment should exhibit inventory of the estate in court, that is, on or before 24th April 2023,
- (f) The Case should for mention on 25th April 20 23

It is accordingly so ordered,

DATED at **ARUSHA**, this 24th day of November, 2022



A handwritten signature in blue ink, appearing to read "J.C. Tiganga", is written over a horizontal line.

J.C. TIGANGA

JUDGE