

IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 500 OF 2022

(Arising from Probate and Administration Cause No. 75 of 2019)

IN THE MATTER OF THE ESTATE OF THE LATE KOHELETHY K. MARGAI

AND

**IN THE MATTER OF AN APPLICATION BY FAUZIA K. MARGAI (NYAMCHELE)
FOR REVOCATION OF PROBATE GRANTED TO PIERE EDWARD MAREGESI**

FAUZIA K. MARGAI APPLICANT

VERSUS

**PIERE EDWARD MAREGESI MARGAI (Administrator of the estate of the
late KOHELETHY K. MARGAI)RESPONDENT**

RULING

23 & 30 November, 2022

MWANGA, J.

FAUZIA K. MARGAI, being one of the two daughters of the late **KOHELETHY K. MARGAI** is seeking indulgence of this court to revoke appointment of **PIERE EDWARD MAREGESI MARGAI** as

administrator of the estate of her late father given on 30/09/2020 before Ibrahim, J.

The application was brought under Section 49(1)(d) and (e) of the Probate and Administration of Estates Act, Cap. 352 read together with rule 14 of the Probate Rules. The applicant enjoyed the service of Mr. Raphael David, learned Advocate while the respondent appeared in person.

Briefly stated, the deceased **KOHELETHY K. MARGAI** died in Dar es Salaam on 09/05/2015. On 30th September, 2020 the respondent successfully petitioned and granted letters of administration of the estate of the deceased. As required by law, the respondent ought to file true inventory of all properties and credits and exhibit the same in court within a period of six months which was not later than 30th March, 2021.

At the hearing, the learned counsel adopted affidavit of Fauzia K. Margai. The applicant deposes at paragraph 6 that, with no apparent reason, the respondent refused to discharge his legal duty for about one year and eight months from the date of his appointment as administrator. It was her averments further that, the assets, accounts, motors, houses and company are still in his hands while beneficiaries are suffering for his misconduct. For interest of justice, the applicant stated

in paragraph 8, this court shall revoke letters of administration given to the respondent and subsequently appoint the applicant.

Per contra, the respondent deposed that he has encountered a big snag following the appointment of James by Msowoya who was granted letters of administration of the estate of the late ZAITUN K. MARGAI, the wife of the deceased which involved the same properties to be administered by him.

Furtherance to that, he deposed at paragraph 5 that, through court order in Land Application No. 75 &340 of 2021 he was restrained from tempering, in any way, with the properties of the deceased. It was his deposition further that, the deceased properties were in the possession of the administrator of wife of the deceased one ZAITUN K. MARGAI, who disposed most of them, if not all.

During the hearing, he fairly conceded to the application. However, he would wish to consult his clan members who gave him the responsibility to administer the properties of the deceased before he is being discharged with such responsibility. He submitted further that, he is concerned with creditors of the deceased and once he is assured that all debts are going to be taken care of, he no longer interested with the duty to administer the deceased's estate. His deposition at paragraph 8

he stated that; ***'I am not elingling to administer the same and I simply contest this application to clean my name'***

Having gone through the submission and considering depositions of the parties, the respondent has fairly conceded to the application. As to the matters relating to the debts raised by the respondent, I hasten to state that one of the duties of the administrator, which shall also be stated in the letters of administration, is distribution of the estate to the people legally entitled, one being payment of all just debts of the estate before distributing the estate to the beneficiaries.


The argument to consult clan members, the respondent must know that he was not given the administration task by clan members but rather by the court. The letters of administration granted to the respondent on 30th September, 2020. Hence, there is no point in consulting clan members to that effect.

Given that respondent do not contest the application, save for reservations stated in his submission, this court considered remarks both at the hearing and in his depositions and it is hereby: -

1. revoke the appointment of PIERE EDWARD MAREGESI MARGAI as administrator of the estate of the late KOHELETHY K. MARGAI; and
2. appoint the applicant herein, FAUZIA K. MARGAI as a new administrator of the estate of the late KOHELETHY K. MARGAI.
3. The respondent, PIERE EDWARD MAREGESI MARGAI shall forthwith surrender letters of administration to this court.
4. The respondent, PIERE EDWARD MAREGESI MARGAI shall handover to the newly appointed administrator whatever is in his possession as a former administrator of the estate of the deceased and account for all properties which he has been taking care of from the date of appointment to the date of his revocation.
5. The applicant FAUZIA K. MARGAI shall, within six months from the grant of letters, exhibit in this court an inventory containing a full and true estimate of all property in possession, credits and also all debts owing by any person.

Owing to the circumstances and nature of the proceedings, I order that each party should bear its own costs.

It is so ordered.



H.R. MWANGA

JUDGE

30/11/2022

ORDER: Ruling delivered in Chambers this 30th day of November, 2022
in the presence of both applicant and respondent in person.




H.R. MWANGA

JUDGE

30/11/2022