

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
TEMEKE HIGH COURT SUB-REGISTRY
(ONE STOP JUDICIAL CENTRE)
AT TEMEKE**

PROBATE AND ADMINISTRATION CAUSE NO. 41 OF 2022

In matter of the estate of the late

RAPHAEL KAISI KABIGI **DECEASED**

BETWEEN

In the matter of letters of administration granted to

RADHIA HUSSEIN SOSOVELE **PETITIONER**

AND

In the matter of application for revocation of the letters of administration by

ABDUL KAISI **APPLICANT**

RULING

1/11/2022 & 7/12/2022

I.C. MUGETA, J

The respondent was appointed to administer the estate of Raphael Kaisi Kabigi who died intestate. The applicant is a beneficiary who moves the court to revoke her letters of administration. The reasons for the application per the affidavit are as follows:

- i. He was never called to attend the clan meeting and he never approved the respondent to apply for letters of administration.*
- ii. No clan meeting was held to approve the respondent to apply for letters of administration and he was not given notice of the petition for the letters of administration by the respondent.*
- iii. He is not listed in the petition as a beneficiary.*

M. Mugeta

iv. The respondent is a cousin of the deceased, therefore not eligible to administer the deceased's estate.

The respondent has countered the contents of the affidavit by arguing that the applicant is listed as one of the beneficiaries in the petition and that after death of the deceased, the applicant took possession of the deceased's properties and after leasing the house at Ferry Kigamboni he became untraceable and he never picked his phone No. 0653031398 nor responded to SMS sent to him by her. Further, that the clan meeting was held on 3/12/2021 which facts are disputed by the applicant in the reply to the counter affidavit.

I have gone through the petition and found that, indeed the applicant is listed as beneficiary. Therefore, the complaint in that respect has no merits. Regarding holding family meetings, neither the Probate and Administration of Estates Act [Cap 352 R.E. 2002] nor the Rules made thereunder prescribes for such a requirement. However, the foregoing notwithstanding, as a matter of fact, such a meeting was held on 3/12/2022 before the respondent petitioned for letter of administration. Indeed, the applicant did not attend and he had no notice for reason of his untraceability as alleged by the respondent who I find to be credible. She is credible because if she had made the petition in bad faith she would not have listed the applicant as surviving the deceased.

On suitability of the respondent to administer the estate, the respondent being deceased's sister cannot be said to be ineligible for appointment to administer the deceased's estate who died on 12/8/2016 and up to 2022 the applicant being the deceased elder son had taken no step to petition for letters of administration.

By way of obita dictum, I have gone through the petition for letters of administration and found that at paragraph 9 of the petition the respondent gave reason as to why the petition was not filed within three years as required by rule 31 of the Probate Rules. The reason is that the family was imploring the applicant to petition in vain. In his affidavit the applicant has not stated why he did not petition for letters of administration since 2016 when the deceased died. The respondent, therefore, petitioned on a good cause.

Under the circumstances, I find the petition without merits. I dismiss it.



I.C. Mugeta
I.C. MUGETA

JUDGE

7/12/2022

Court:- Ruling delivered in chambers in the presence of the applicant and the respondent.

Sgd I.C. MUGETA

JUDGE

7/12/2022