

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA AT ARUSHA

MISC. CIVIL APPLICATION NO. 25 OF 2022

IN THE MATTER OF PROBATE AND ADMINISTRATION OF ESTATES ACT, CAP.

352 R.E 2002

AND

IN THE MATTER OF THE ESTATE OF THE LATE GEORGE PETER THEOBALD

(DECEASED)

AND

**IN THE MATTER OF RESEALING OF PROBATE GRANTED TO CHRISTOPHER
PETER THEOBALD and JOHN PAUL BATTING AS EXECUTORS OF THE WILL OF
THE ESTATE OF THE DECEASED**

RULING

19/4/2022 & 10/05/2022

GWAE, J

This is an application for sealing of probate in respect of the estate of the late George Peter Theobald granted by the High Court of Justice, the District Probate Registry at Winchester to Christopher Peter Theobald and John Paul Batting. The application is brought under the provision of section 95 of the Probate and Administration of Estates Act, Cap. 352, Revised Edition, 2002 and Rule 97 and 98 of the Probate Rules, 1963. This application

is supported by an affidavit dully sworn by the appointed executors Christopher Peter Theobald and John Paul Batting.

It is evident from the affidavit that on the 24th March 2014 the High Court of Justice, the District Probate Registry at Winchester granted probate to Christopher Peter Theobald and John Paul Batting, who are the applicants herein, as executors of the Estate of the late George Peter Theobald who died on the 26th day of September, 2013 and he domiciled at Old Rectory the Street Ewhurst, Summer brook Ockley Road Ewhurst Cranleigh Surrey, England. A copy of the death certificate and grant of probate were attached to the application.

The applicants stated that the deceased had also left 255,960 shares in the United Republic of Tanzania to a Company named as TATEPA PLC and its gross value is Tshs. 30,000,000/=. Therefore, for purposes of administration of the estate of the deceased's properties, the applicants have filed this application seeking for sealing of the Probate of the estate of the late George Peter Thobald taking into account the above-named property is situated in the United Republic of Tanzania.

Upon filing of this application, the Notice of Application for sealing was issued and published in official Government Gazette dated 25/03/2022 and the application stood uncontested up to the date of hearing of this application.

At the hearing of this application, the applicants were represented by the learned counsel, Mis. Ikoda Kазzy and she had nothing more than what is contained in the applicants' joint affidavit.

I have considered the application and the fact that the Applicants have produced and deposited to this Court the copy of probate granted by the High Court of Justice, the District Probate Registry at Winchester, published their Notice in the Government Gazette, lodged an inventory and evaluation of property in respect of which the application is made and their application for resealing of the Probate remained uncontested after being published, this court finds that this application meets the requirements of section 95 of the Probate and Administration of Estates Act, Cap. 352 (Revised Edition, 2002 (Act) as well as Rules 97 to 102 of Probate Rules (Rules).

Accordingly, I find no reason justifying this court to decline granting this application for resealing of the probate, the same is therefore grantable

in order to enable the executors of the deceased's estate to administer the property which is in the United Republic of Tanzania for the interest of the surviving heirs.

I am however alive of the Rule 97 of the Probate Rules, cited by the applicants which requires the filing of proceedings under Part X of the Act (supra) in the High Court of United Republic of Tanzania at Dar es salaam but it is my considered view that the applicants' filing of this application is proper and in conformity with the section 4 and 94 of the Principal Act that is Probate and Administration of Estate Act (supra) plainly bestow this court with the requisite jurisdiction to re-seal certain grants of probate and letters of administration duly granted by a court of probate in any part of the commonwealth.

More so, Rule 97 of the Probate Rules, in my considered opinion, ought not to be repugnant with the Principal Act and above all the wording of the said Rule clearly purports to hinder an accessibility of justice, therefore, it is contrary to the judiciary mission.

Consequently, I make an order for re-sealing of letters of probate granted to the applicants by the High Court of Justice, the District Probate

Registry at Winchester and hereby direct the Deputy Registrar of the Court to endorse a certificate thereon under Rule 103 of the Probate Rules, 1963.

It is so ordered.



A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

M. R. GWAE
JUDGE
10/05/2022