

THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

[ARUSHA DISTRICT REGISTRY]

AT ARUSHA

PROBATE AND ADMINISTRATION CAUSE NO. 12 OF 2021

IN THE MATTER OF PROBATE AND ADMINISTRATION ESTATES ACT

(ACT NO. 9 OF 1963)

IN THE MATTER OF THE ESTATE OF LATE BERESFORD JOHN BALE

AND

IN THE MATTER OF APPLICATION FOR PROBATE BY LYNN ANN BALE

RULING

8th February and 11th March, 2022

MZUNA, J.:

This is a petition by Lynn Ann Bale for letters of appointment as an executor cum administratrix of the estate of the late Beresford John Bale who died testate at Monduli Hospital on 28th day of April, 2020. The deceased is survived by two children namely LAN JOHN BALE born 7th September, 1969 and WADE JOHN BALE born 28th December, 1971.

The order of citation was issued by the petitioner through her advocate Mr. Sindato Shao, the learned counsel. The citation was through Government Gazette dated 15th October, 2021 and exhibited in Court as proof thereof. To date, no caveat has been filed so far.

The main issue is *whether the applicant is a fit person to be granted executrix letters together with the petition for probate?*

The deceased Beresford John Bale and his wife Lynn Ann Bale, the petitioner, agreed as per the will that in the event either of the two preceded the other by death, the surviving spouse should execute it. It is therefore on account of this fact that she stands as the executor of the deceased's estate. The joint Will between the deceased and the petitioner was also exhibited in Court as exhibit A4.

Section 24 of the Probate and Administration of Estates Act, Cap 352, reads:-

"24. Grant of probate;

*(1) Probate may be granted **only to an executor appointed by the will.***

(2) The appointment may be express or by necessary implication.

(3) ... (N/A)

(4) ... (N/A)"

(Emphasis mine)

Based on the filed affidavit as to domicile, executor's oath with proof of publication of the citation issued by the order of the court, I find that she qualifies to be appointed as such as it is within the dictates of the law above cited. In that regard, this Court is satisfied that the

petitioner who is also the deceased's wife is a fit person to execute the deceased's estate in line with the executor's oath, duly filed.

That said, I hereby appoint Lynn Ann Bale as the executrix who shall also administer the estate of the late Beresford John Bale. She is duty bound to collect the deceased's properties and debts then file inventory and statement of accounts within six months and one year respectively as per the provisions of Section 107 (1) of Cap 352.

Application for letters of administration is allowed as prayed for with no order for costs.

Order accordingly.



**M. G. MZUNA,
JUDGE.**

11th March, 2022.

