IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MOSHI DISTRICT REGISTRY

AT MOSHI

PC. CIVIL APPEAL NO. 15 OF 2022

(Arising from Moshi District Court in Probate Appeal no. 8 of 2022, Originating from Moshi Urban Primary Court in Probate Course no. 72 of 2015)

PENDO MATHIAS MATERU ..... APPELLANT

VERSUS

CECILIA MATHIAS MATERU..... RESPONDENT

JUDGMENT

29th & 5th June, 2023

A.P.KILIMI, J.:

The respondent hereinabove was officially appointed to be the administratix by Moshi Urban Court on 22/05/2015 after the death of the late Professor Mathias Bernard Materu on 15/12/2012. The parties above are very close related, Respondent is the lawful wife of deceased whom during their life time cerebrated Christian marriage on 26/12/1974 at Kishumundu Roman Catholic Church, Moshi Diocese. Their union was blessed with two issues, first is Pendo Mathias Materu (hereinabove the appellant) born 1975 and the other is Bahati Mathias Materu born 1977.

Being at their early marriage hood, respondent's husband (deceased) left to the United States of America for studies and later worked there at Saint Augustine College. He died on the date mentioned above at Rex Hospital in North Coroline, USA and buried at Kisomboko- Uru, Moshi Tanzania. After the funeral, the clan meeting was convened and appointed the respondent to petition for letters of Administration of her late husband.

After her being officiated to administer the said estate, consequently in the course of discharging her duties, she faced serious challenges from the trespassers of the deceased estate, several land cases and objections cases were filed against her, but lastly, she was successfully remaining with her status given by the trial court. The last challenge is the one caused this appeal, this was initiated by the Appellant herein, who filed a letter for revocation of the Respondent as an administratrix of the deceased estate.

According to records, the appellant challenged the distribution of the deceased estate. The trial court after hearing her concern in merit, rejected her claims and ordered the respondent to file inventory and acceded with her distribution. The appellant went to the first appellate court challenging the said decision basing on five grounds as follows; -

1. *That the trial Magistrate erred in law and facts by deciding issues not raised by the applicant in her letter of application for revocation of the appointed administratix as a result the appellant herein above was almost condemned unheard.*
2. *That the primary court erred in law and facts in failing to exercise jurisdiction vested in it by the law in the matter.*
3. *That the trial Magistrate seriously erred to take into account a mere presumption by the respondent that the deceased's estate had been already distributed to his legal heirs/beneficiaries something which is untrue.*
4. *That the primary court Magistrate erred in law and in fact by deciding in favour of the respondent while knowingly that the administratix tenure is contrary to the law.*
5. *That the primary court erred in law by entertaining the matter while knowingly that it had no jurisdiction to entertain the same.*

The first appellate considered the submissions for both in respect to the above grounds and was of the view that the appellant after being challenged for her work done, she called witnesses at the trial court which found that she rightly done what was required as an administratix. In the point of jurisdiction of the trial court, the first appellate observed that deceased departed from the Christian mode of life because apart from the respondent, the deceased had another woman whom he had children with, which is contrary to the Christian norms of marriage and therefore warrant the administration of his estate to be pure customary.

Having considered the above, the first appellate court upheld the decision and orders of the trial court, thus dismissed the appeal. The Appellant being aggrieved with the said decision has preferred this appeal basing on the following grounds;

1. *That, honourable first appellate Court erred in law by deciding that the trial Primary Court had jurisdiction to determine the estate of deceased who had undisputedly adopted a Christian mode of life.*

2. *That, the honourable first appellate Court erred in law to decide that the deceased had abandoned a Christian mode of life basing on the deceased's divorce of the Respondent and re-marriage to another spouse.*

3. *That, honourable first appellate Magistrate erred in law and fact by affirming the decision of the trial Court to allow the Respondent to file inventory of the deceased estate out of time without either application for extension of time or advancing sufficient cause for the extreme delay.*

4. *That honourable first appellate Court erred in law and fact by deciding that the Respondent was still performing her duties as an admnistratrix of deceased's estate by dealing with disputes involving deceased's estate, while the said disputes had long been concluded in judicial proceedings.*

5. *That honourable first appellate court erred in law by deciding that the Appellant had abandoned her application for revocation of the appointment of the Respondent as an admnistratrix.*

6. *That the honourable first appellate court erred in law by affirmed the decision of the trial Court which failed to determine the Appellant's application for revocation of the appointment of the Respondent as an admnistratrix of deceased's estate.*

7. *That the honourable first appellate court erred in law by deciding that the deceased's estate had already been distributed to lawful heirs.*

When this appeal came for hearing before me, Mr. Zayumba learned counsel appeared for the appellant, while Mr. Tumaini Materu appeared for respondent. Both counsels acceded for written submissions, which was blessed by this court, the schedule of filing the same was made, I thank all for timely compliance.

In supporting grounds of appeal, Mr. Zayumba argued first and second ground of appeal collectively and submitted that the Primary Court had no jurisdiction to determine the case, Jurisdiction of primary courts is limited on Customary and Islamic law. The deceased and the Respondent contracted a Christian marriage, and the deceased had been residing in the United States of America almost all his life, also There is nothing on record to show why the trial court was of the view that the deceased had abandoned the Christian way or modern way of life and reverted back to his ancestors' customary way of life. To fortify his view the counsel referred

the case of Sabato **Maiga v. Malemi Kubwela Msukula** PC Probate Appeal No.2 of 2021 (unreported)

Further, he argued that this Court had already made a decision whether the deceased lived a Christian mode of life or not and whether customary law was applicable to him or not, it was in the case filed by the current Respondent herself at this same Registry, **Cecilia Mathias Materu v. Stella Mathias Materu** in Civil Case No.06 of 2016 High Court at Moshi, (unreported) wherein Respondent challenged the validity of a marriage certificate between the deceased and Stella Materu, who married the deceased pursuant to a divorce issued in1989. Therefore, the High Court already made a decision that the deceased was a Christian, then it will be illegal for the same Respondent to argue today that the deceased lived a customary way of life in the United States of America for 30 years.

Mr. Zayumba further argued that, the District Court erred to determine that the deceased had abandoned Christianity since fathered children with another woman, that is not a criteria to confer jurisdiction to a primary court, since the deceased remarried after a divorce in American court which was however not recognized in Tanzania due to lack of registration. If that had been the case the law applicable would have been statutory law and not

customary laws, since by living on the basis of American and modern laws, that after dissolution of a marriage by a court of law a Christian is allowed to re-marry.

The counsel for appellant also consolidated third and fifth ground and argued that the Respondent was appointed in 2015, since then did not file an inventory to distribute deceased's estate to lawful heirs, The court instead of revoking the letters of administration allowed the Respondent to file the inventory out of time and without any application. The position of the law is that an administrator must file inventory and
statement of accounts within the stipulated period of time under the law. To support his argument has referred Rule 10 (1) of GN 149 of 1971 The Primary Courts (Administration of Estates) Rules and the case of **Beatrice Brighton Kamanga & Another v. Ziada William** Kamanga Civil Revision No.13 of 2020(unreported).

In respect to the extension of time to file inventory and statement of accounts by the Primary court, Mr. Zayumba averred that it was illegal, since the matter filed by the Appellant was revocation of the letters issued to the Respondent, and neither the extension of time to file inventory nor

distribution of deceased's estate. The said court did not make any ruling or order that the current Appellant had abandoned

her application for revocation.

Submitting in regard to ground number four said submission made on ground number three suffice, which insist Respondent did not apply for extension of time after the expiry of the 4 months mandatory period stipulated by the law. While on ground number six said already covered with previous grounds.

On the last ground, the counsel for appellant submitted that, the distribution of deceased's estate is complete upon filing of an inventory and the heirs are normally summoned by the court to be informed, so that if one is aggrieved can take necessary steps, in this case that was not done, what was before the court was application for revocation of letters of administration filed by the current Appellant.

Responding on the above, the counsel for respondent also argued together ground number one and two and submitted that, the deceased lived in USA and Tanzania and he practiced Chagga Tribal traditions customs and culture as he always visited his ancestral area at Uru – Kilimanjaro every

December of every year, and he participated in all Chagga rituals such as playing chaga drama, slaughter a male goat, he was born and grew up in Uru within Kilimanjaro region, he constructed a house at Uru - Kilimanjaro, he travelled to and visited his Ancestral areal at Uru in Kilimanjaro region regularly, also customary rites were observed during his burial ceremony. Furthermore, the deceased had several relationships with different women as result thereof he was blessed with four (4) children out of the wedlock as appeared in the probate Form No. VI filed at the trial Court. Therefore, the deceased lived customary way of life and there was no dispute over the deceased mode of life at the trial Court.

In respect to the case of **Cecilia Mathias Materu vs. Stella Mathias Materu**, Civil Case No. 06 of 2016, High Court of Tanzania at Moshi (unreported) cited by Appellant's Counsel. Mr. Materu contended that is distinguishable in the present appeal, because the said case was sole based on determination of the validity of the purported marriage contracted between the deceased and STELLA MATHIAS MATERU. The counsel further contended that the Respondent herein was a lawfully wife of the deceased and there is no any divorce order in the record of this Court and in the

subordinate Courts. Thus, the allegation of purported divorce is baseless for want of proof and it has no merit.

Maintaining the above, Mr. Materu further contended that since there was no divorce to the marriage contracted between the Respondent herein and the deceased, it is proved that the deceased did not abandon his chaga customs and traditions in the purported second marriage with Stella Mathias Materu. This is because in customary way of life a man is allowed to have more than one wife. Thus, maintain that the deceased lived in customary way of life, and therefore, the Primary Court had jurisdiction to entertain the matter. To buttress this contention has referred the case of **Peles Moshi Masoud v. Yusta Kinuda Lukanqa**, Pc. Probate Appeal No. 4 of 2020 High Court of Tanzania at Kigoma, and **Catherine Priscus Massawe v. Kamili Proti Massawe** (Mise Civil Application No. 19 of 2021), High Court of Tanzania at Moshi (both unreported), also cited **Re Innocent Mbilinyi** (1969) HCD 283.

Then, the counsel for respondent also combined ground number three and five as appellant counsel did and contended that, the reasons for delay to file subsequent inventory was clearly provided by a letter dated 18th November 2021 which was filed at the trial Court by Respondent, whereby

the Respondent therein clearly stated that she failed to file inventory within a time because of existence of several cases regarding the deceased estate to wit: Miscellaneous application No. 32 of 2017 filed by Stella Mathias Materu at Moshi Urban Primary Court to challenge the inventory filed by the Respondent; Probate Appeal No. 12 of 2017 filed by Respondent at the District Court of Moshi to challenge the decision of the trial Court in Miscellaneous application No. 32 of 2017, whereby the judgment was delivered on 16th January 2019.

Furthermore, the counsel proceeds that, there was Land Case No. 206 of 2016 between **Cecilia Materu v. Stella Mathias Materu**, in the District Land and Housing Tribunal of Moshi at Moshi, whereby the judgment was delivered in favour of the Respondent on 29th June 2017. Also Land Case No. 191 of 2019 filed by the Respondent against Joseph Damas Tesha at District Land and Housing Tribunal of Moshi at Moshi, whereby the judgment was delivered in favor of the Respondent on 5th July 2021. Furthermore, the Respondent filed the Land Case No. 190 of 2019 against Michael Bernard Materu (Blood relative of the deceased) at the District Land and Housing Tribunal of Moshi at Moshi, whereby the said case ended on 10th November 2021. Therefore, the existence of the said cases reveal that the Respondent

was very busy in defending and protecting the deceased estate in the Courts. Thus, there was sufficient reason for delay to file subsequent inventory within the time.

Mr. Materu further argued that, the Appellant at the Primary Court appeared to challenge the subsequent inventory while the said inventory was not filed at that time, thus, through the consensus of both parties and the prayer made by the Respondent to file subsequent inventory, the trial Court ordered the Respondent herein to file subsequent inventory basing on the circumstances of the case and there was sufficient reason which justify delay.

Contending in respect to ground number four, Mr. Materu invited me to consider it was impossible for the Respondent to file subsequent inventory while there are cases pending in the Court and Tribunal regarding the deceased's estate as stated above. Thus, submitted this ground have no merit.

On the sixth ground, Mr. Materu contended that, during the hearing at the trial Court, the Appellant abandoned her application for revocation as her main concern was based on distribution of the deceased estate whereby,

she wanted a house at Kisomboko which is matrimonial property and where the deceased was buried. Thus, through consensus of both parties and the prayer made by the Respondent to file subsequent inventory, the trial Court ordered the Respondent herein to file inventory and proceed to determine the fairness of the distribution of the deceased's estate to the beneficiaries.

In respect to the ground number seven which contended that First Appellate Court erred in law by deciding that the deceased estate had already distributed to lawful heirs. Mr. Materu submitted that it is correct because the Respondent herein filed inventory at the trial Court on 28th August 2017 and such inventory was successfully challenged by Stella Mathias Materu at the trial Court, however upon appeal to the District Court of Moshi by Respondent in the Probate Appeal No. 12 of 2017; the District Court of Moshi delivered the judgment on 16th January 2019 in favour of the Respondent herein. Whereby the District quashed the Primary Court decision and confirmed the filled forms No. V and VI. He also submitted that the said inventory filed at the trial Court on 28th August 2017 is still valid and no one has challenged the same after the said judgment in probate appeal No. 12 of 2017.

Remarking in regard to the distribution made, Mr. Materu contended that, the deceased's estate was distributed fairly to the entitled heirs as indicated in Probate Form No. VI filed at the trial Court, also all beneficiaries of the deceased estate did not complain anywhere about the inventory filed by the Respondent, except the Appellant herein.

I have considered the rival submission of both learned counsels, since this is the second appeal from the decisions of two court below with concurrently findings, I am mindful it the established principle of the law that, this being the second appellant court, it cannot interfere with the concurrent findings of the two lower courts unless there are pertinent issues or misapplication of the law. In the case of **Julius Josephat vs. The Republic**, Criminal Appeal No. 03 of 2017, the Court of Appeal stated that:

> *"...it is the practice that in a second appeal, the Court should very sparingly depart from the concurrent findings of fact by the trial court and the first appellate court. In exceptional circumstances, it may nevertheless interfere as such only when it is clearly shown that there has been a misapprehension of the evidence, a miscarriage of justice or violation of some principles of law or procedure by the courts below."*

To start with first and second ground which was argued and replied in consolidation, the issue is whether the deceased professed Customary or Christian rites. The respondent was appointed by the primary court, thus, in law, Primary Court may hear matters relating to grant of administration of estates where it has jurisdiction, and that is nothing but where the law applicable is Customary law or Islamic law. (See the case of **Ibrahim Kusaga v. Emmanuel Mweta** [1986] TLR 26.

As I have highlighted above, there is no dispute that the deceased and respondent contracted Christian marriage, having this in mind, the next point to be considered is whether the deceased did not abandon customary way of life despite of the said marriage and Christian faith adopted. It is important this be known because practice shows us being a Christian does not mean one has been detached from his or her customary life, rather must be evidence to support the same. There is a distinction between Christian who live and practice normal customary life and those who have professed Christian religion and either by a declaration or by act or manner of life is evident that they were professed as such as intended that their estate will be administered under applicable law to christian. (See the case of **Gibson**

Kabumbire v. Rose Nestory Kabumbire Probate Appeal No. 12 of 2020 (unreported).

The Counsel for the respondent pointed out that the deceased travelled to and visited his Ancestral areal at Uru in Kilimanjaro region regularly, also customary rites were observed during his burial ceremony. He also added that, the deceased had several relationships with different women as result thereof he was blessed with four (4) children out of the wedlock as appeared in the probate Form No. VI filed at the trial Court. Therefore, the deceased lived customary way of life, thus the primary court had jurisdiction.

However, I fully subscribe with the observation of Mr. Materu that it was evidenced in this court in the case of **Cecilia Mathias Materu v. Stella Mathias Materu**, Civil Case No. 06 of 2016, High Court of Tanzania at Moshi (unreported), that there was no divorce to the marriage contracted between the Respondent herein and the deceased, it is proved that the deceased did not abandon his chaga customs and traditions in the purported second marriage with Stella Mathias Materu.

In the case of **Cecilia Mathias Materu v. Stella Mathias Materu** (supra), which I had ample time to pass through it, in that case, respondent herein sued a woman called Stella Mathias Materu for a declaration of the marriage certificate, which she presented to Saint Augustine College of the United States of America (former employer of her late husband) indicating her to be the surviving spouse of the deceased, was fraudulently obtained. This court observed that if at all the deceased contracted marriage with Stella Mathias Materu, then they contracted while the former Christian marriage which is monogamous exists, this court further had this to say;

> *"Secondly, since there was no proof that PW1 had been divorced as claimed, I consider the marriage between PW1 and the late Materu was still valid up to 15th December, 2012 when the late Materu passed away. The marriage between DW1 and the late Materu was without any ambiguity void, and had no legal force because the late Materu was still in a monogamous marriage and therefore could not legally contract another marriage as long as PW1(respondent herein) was still alive"*

In view of the above, it is evidenced that the deceased married another woman contrary to the Christian faith, therefore I am in agreement with the Counsel for the Respondent that this is cogent evidence revealing that the

deceased did not abandon his customary lifestyle which allows polygamous marriage.

From the above premise, I am of considered opinion that, deceased lived customary way of life despite of being Christian, therefore, I have no doubt, the primary court had jurisdiction to entertain the matter because the applicable law is customary law. Having find so, the first and second grounds fail and are hereby dismissed for want of merit.

Next, in regard to ground number three and five which were argued together by both counsels, I have found two issues appeared to me convenient to dispose these grounds, first, is whether the trial court was justified to order respondent to file inventory out of time and two whether the letter for revocation was not dealt with at the trial court.

Before moving further, I found it appropriate to look on what the learned trial Magistrate said, and later how the first appellate court observed after doing its duty of evaluating the evidence of the trial court; At page two of the typed judgment of the Trial court date 15/06/2022, the learned trial magistrate observed that;

"Mleta maombi alileta malalamiko yake akitaka kumtengua msimamizi wa mirathi lakini malalamiko hasa ni kwa kuwa msimamizi hajagawa mali za marehemu hivyo warithi kukosa haki na baada ya msimamizi kuitwa na kufika mahakamani ilikubalika baina ya pande mbili kwa lengo la warithi kupata haki yao kwa wakati na mirathi kufikia mwisho msimamizi atekeleze wajibu wake wa kugawa mirathi kwa kujaza fomu namba V na VI kazi ambayo msimamizi aliifanya na ndiyo maana tukafikia uamuzi huu kwa kuwa mleta maombi hakuridhika na namna mali ziiivyogawiwa kwa warithi."

Moreover, at page 8 of the first appeal judgment, the learned Resident Magistrate on evaluating evidence had this to say;

"I have thoroughly gone through the trial court's proceedings and discovered that on 16/11/2021 the appellant appeared before the appointing court applying for the respondent's revocation. The records also show that the respondent was summoned and she appeared in court on the said date. After the allegations being read to her, it was the respondent's reply that she didn't file an inventory on time since some of the deceased's estates were in dispute. The matter was therefore scheduled for hearing. On the reasons known by the parties, on 13/12/2021 when the matter was fixed for hearing, the appellant prayed for the matter to be adjourned till 29/12/2021 for the respondent to file probate forms V and VI. Basing on the said prayer, the matter was adjourned several

times and on 6/1/2022 the respondent submitted the probate forms V and VI before the appointing court. From this piece of record, it is obvious that the appellant had been accorded with the right to be heard but chose to waive it by asking for the respondent to file an inventory.

.....

With regard to the account and inventory forms filed, it is apparent on record that, after challenging them the appellant had a chance to call his witnesses as well as the respondent and finally the court found that the appellant's objection had no merit and went on admitting them."

According to the above, I also subscribe with the contention by the respondent's counsel that since the appointment of the respondent, she had several cases as mentioned above, which hindered her to file inventory, therefore, I also concede with the first appellate court that, the respondent was still performing her duties as the Administrator of the deceased's estates and there was no point where the court revoked her appointment. And the fact that, the trial court allowed her to file an inventory and account forms. This implies that her tenure was extended. However, I am satisfied there were good reasons for her not to file in time, and I am of the view it was right and justified to extended time and ordered the respondent to file inventory.

In regard to the issue of revocation of letter granted to the respondent, according to provisions of Rule 9 (1) of Primary Courts (Administration of Estates) Rules G.N No. 49 of 1971. The Rule is very clear that an application for revocation of appointment of administrator can only be made by either creditor, heir or beneficiary of the deceased's estates, this rule also advances the reasons for doing so, and I reproduce the rule hereunder;

"9. Revocation or annulment of grant of administration

(1) Any creditor of the deceased person's estate or any heir or beneficiary thereof, may apply to court which granted the administration to revoke or annul the grant on any of the following grounds–

(a) that the administration had been obtained fraudulently;

(b) that the grant had been made in ignorance of facts the existence of which rendered the grant invalid in law;

(c) that the proceedings to obtain the grant were defective in substance so as have influenced the decision of the court;

(d) that the grant has become useless or inoperative;

(e) that the administrator has been acting in contravention of the terms of the grant or willfully or negligently against the interests of creditors, herein or beneficiaries of the estate."

Therefore, it was the duty of the appellant at the trial court to prove the same. In civil litigation, the burden of proof to be discharged on the balance of probabilities lies with the one who alleges. Section 112 of the Evidence Act, provides as follows:

> " *The burden of proof as to any particular act lies on that person who wishes the court to believe in its existence unless it is provided by law that the proof of that fact shall He on any other person."*

(See also the cases of **Pauline Samson Ndawavya vs. Theresia Thomas! Madaha,** Civil Appeal No. 45 of 2017, and **Anthony M. Masanga v. Penina (Mama Mgesi) & Lucia (Mama Anna),** Civil Appeal No. 118 of 2014 (both unreported).

On record nothing above was proved by the appellant, but as shown above by the trial court and the first appellate court, it seems the application for revocation was settled by the trial court by ordering the respondent to file inventory as shown above, nonetheless, the reasons advanced for revocation went to the mind of the trial court, and prudently having regarded the reasons for delay ordered filing of inventory. Which in my view I also

subscribe to them. In the above premises, I am of considered opinion the two grounds stated above also devoid merit and hereby dismissed forthwith.

In respect to the remaining grounds, the records reveal, after the respondent filed inventory by necessary legal forms. The appellant herein was dissatisfied with the distribution made by the respondent and filed objection to it. Here, she legally exercised her concern since it is a good practice that once the administrator lodges a statement of final account, the court has to make it know to the heirs, debtors and creditors and ask them to file objections against, if they so wish. In the case of Nuru **Salum and Husna Ali Msudi Juma**, PC Probate Appeal No.10 of 2019 it was held that;

> *"In practice, in a good system of administration of justice, once they are filled, the court must cause the same to be known to heirs, debtors and creditors and ask them to file objections against them, if they so wish. If there is an objection, the court will be at liberty to return them to the administrator for rectification as was said by this court in or proceed to hear the parties and make a ruling on the matter."*

The said objection raised by appellant was heard and finally the trial court on 15/06/2022 delivered ruling, thus, at page 10 had this to say;

"Nimepitia mgao wa mali aliouwasilisha msimamizi pamoja na hoja za pande zote mbili nimejiridhisha na ninakubaliana na namna msimamizi alivyogawa mali hizo kuwa ni sawasawa na ametenda haki kwa warithi wote wa marehemu na kwa maana hiyo mahakama inaupokea mgawo kama alivyouwasilisha na msimamizi. Mahakama imeona kuwa mgawo huo umetenda haki kwani kila mrithi amegawiwa mali yake kwa haki. Mahakama inakubaliana na mgawo huo kwa sababu msimamizi huyu amehangaika na mirathi hii kwa zaidi ya miaka sita bila kuharibu mali yoyote ya marehemu na hii ni wazi kuwa ametekeleza yale ambayo ameelekezwa kwenye fomu namba IV wakati alipoteuliwa"

I have considered the circumstances of this matter at the trial court, which in fact succumbed with several cases, this being a probate affiliated with close blood related persons, their conflicts cause throws a great responsibility upon a learned Magistrate of first instance, with the exercise of which I should be slow to interfere. Since the trial court is able not only to estimate the credibility or the parties, but to judge of their temperament and character. And take regard, I had no such opportunity, I think prudent direct, I must be very cautious not to interfere, unless there are substantiated grounds for me to do, which in my view, I hold there none.

Having observed so, I now think this probate should come to an end, if at all know any further objection to the distribution already made by the respondent. In practice when administrator of estate file of Forms No. V and VI, then the court should make an order closing the matter. Consequently, administrator's duties are discharged. I am persuaded to support this stance by the holding in the case of **Beatrice Brighton Kamanga & Amanda Brighton Kamanga v. Ziada William Kamanga** Civ. Rev. No. 13/2020 (unreported) H/C Dar es salaam. In that case, the court held that;

> *"There is an end in probate and administration matters. The matter comes to an end on filling of Forms No. V and VI and after the order of the court dosing the matter. The emphasis here is that, the administrator must present his reports to the court in time which will proceed to put the matter to an end. The position the High Court and primary court on this aspect is the same. Inventories and statement of accounts must be filled within the period stipulated under the law so that the matter may come to an end"*

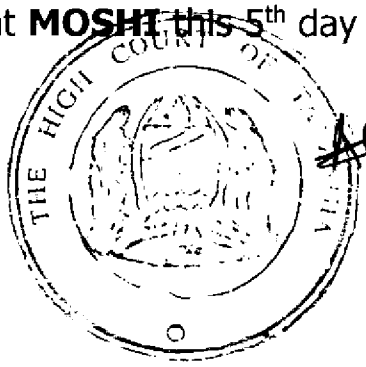
In the circumstances, I find the remaining grounds of appeal also devoid of merit, thus dismissed. Therefore, in view thereof, it therefore my considered opinion, that there is no basis for faulting the concurrent findings of both

courts below, in that respect, I find no any ground triggered on merit, thus the appeal is hereby dismissed in its entirety.

Nonetheless, given the nature of the dispute, I order each party to bear her own costs in this court.

It is so ordered.

DATED at **MOSHI** this 5th day of June, 2023.



A. P. KILIMI

JUDGE

5/6/2023