

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

THE SUB-REGISTRY OF TABORA

AT TABORA

MISC. PROBATE AND ADMINISTRATION CAUSE NO. 15 OF 2023

(Arising from Probate and Administration Cause No. 02 of 2021)

**In the matter of the estate of the late ZAKAYO BAHUMBA
MAGANGA**

And

**In the Matter of Application for Letters of Administration by
CHRISTINA JAMES CHACHA**

RULING

Date: 12/7/2023 & 14/7/2023

BAHATI SALEMA,J.:

Christina James Chacha, wife of Zakayo Bahumba Maganga was appointed on 19th May,2022 as an administrator of the Estate of the late Zakayo Maganga vide Probate Administration Cause No. 2 of 2021.

The applicant filed the present application on 21/3/2023 for an extension of time within which to exhibit an inventory in respect of the estate of the late Zakayo Bahumba Maganga and also moved this Court to schedule a date within which statement of account in respect of the estate of the late Zakayo will be exhibited following the exhibited inventory.

This application is made by way of Chamber Summons under Rule 109(1) of **the Probate Rules**, G.N No. 10 of 1963 and Section 95 of **the Civil Procedure Code**, Cap. 33 [R.E 2019]. The Chamber Summons was supported by an affidavit sworn by Christina James Chacha. The application was unchallenged and therefore no counter-affidavit was filed.

When the matter was called for hearing, Mr. Akram Magoti, learned counsel, appeared and orally submitted in favour of the application. Mr. Magoti adopted the contents of the affidavit in support of the application and vied that sufficient cause for the delay was shown.

The issue to be determined by this court is whether the application discloses sufficient reasons for this Court to exercise its discretion and extend the time for filing an inventory and account of the estate.

The law under the **Probate and Administration of Estates Rules**, G.N. No. 10 of 1963, G.N NO. 107 of 1963 and G.N No. 369 of 1963 under Rule 109 (1) which is referred to as the Probate Rules, provides that:

"An application for extension of time to exhibit the inventory or account shall be made by Chamber Summons supported by an affidavit stating the reasons for such application".

Moreover Section 107 of the **Probate and Administration of Estate Act**, Cap. 352 [R.E 2019] provides that an executor or administrator of the estate shall exhibit in Court an inventory containing a full and true estimate of all the property in possession and all the credits, and all the debts owing by any person to which the executor or administrator is entitled in that

character, within six (6) months from the grant of probate or letter of administration. Section 107(1) of the Act further provides that within one year from the grant or within such further time as the Court may from time to time appoint, the executor or administrator of the estate shall exhibit an account of the estate showing the assets which have come to his hands and in the manner in which they have been applied or disposed of.

Indeed, it is a settled position of law that an application for an extension of time is grantable only upon the court's satisfaction that the applicant has presented a credible case that warrants the grant of the extension. The rationale for this requirement has been succinctly laid down in the case of ***Juluba General Supplies Ltd vs Stanbic Bank Limited***, Civil Application No. 48 of 2014, where the Court of Appeal held;

"All applicants should be concerned in showing sufficient reasons why he should be given more time and the most persuasive reason that he can show us that the delay has not been caused or contributed by the dilatory conduct on his part."

Similarly, for this court to grant an extension of time, the applicant must state sufficient reasons for his delay and account for each day of delay. Having navigated in paragraphs 3 (i), (ii) and (iii) of the applicant's affidavit in support of the chamber Summons, reasons for the delay were expressed,

thus: (i). Some of the properties such as monies in bank accounts required critical verifications and confirmation of the details of both the late Leonard Zakayo Bahumba Maganga and his heirs hence it consumed time to obtain the necessary approval from the respective banks and other financial institutions. (ii) In the course of collecting the properties of the deceased person, I encountered difficulties whereby some institutions and other responsible individuals demanded that they require specific instruction from a Primary Court which according to them is the only Court that deals with probate matters. Thus it took me some time to explain to them and eventually, they came to understand how much time had been consumed in the course. (iii). That some of the deceased properties are scattered in various places in the country thus I was required to travel to various places under financial constraints as most of the deceased's bank accounts were closed immediately following his death".

Having scanned the application, particularly paragraph 3 of the applicant's affidavit as reproduced above, I am gratified that sufficient causes for delay to file an inventory and account were shown as correctly submitted by Mr. Magoti. Therefore, the application is hereby granted. The applicant should file an inventory within thirty (30) days and account within sixty (60) days from the date of delivery of this order.

Order accordingly.



Bahati

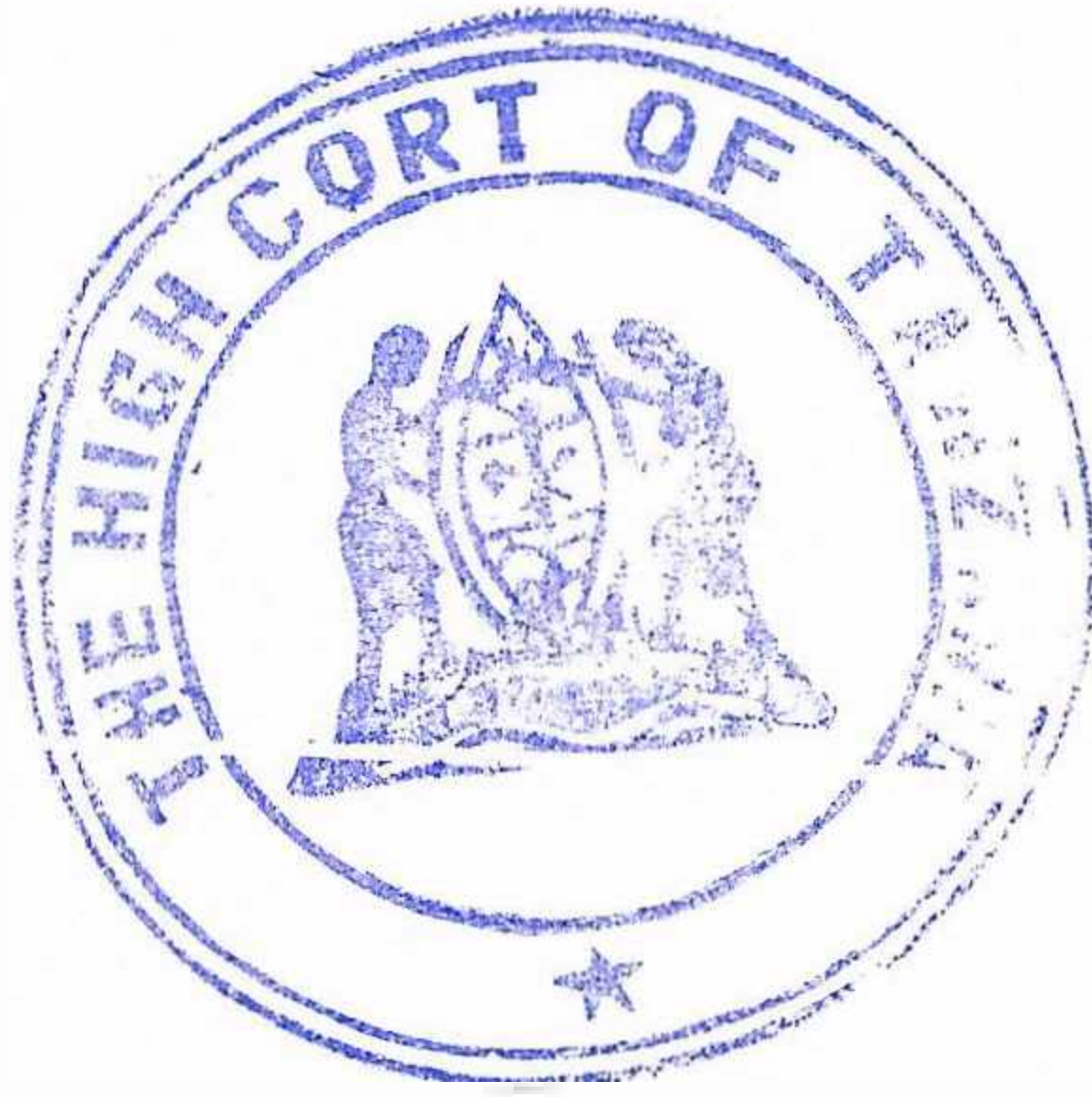
**A. BAHATI SALEMA
JUDGE
14/7/ 2023**

Court: Ruling delivered in presence of the applicant's counsel.

Bahati

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Right of Appeal fully explained.



Bahati

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