

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE SUB-REGISTRY OF MANYARA  
AT BABATI**

**PROBATE AND ADMINISTRATION CAUSE NO. 1 OF 2023**

**JOHN AWEDA QAMUHE.....PLAINTIFF (PETITIONER)**

**VERSUS**

**PETRO AWEDA**

**SIKUKUU AWEDA**



**..... DEFENDENTS (CAVEATORS)**

**RULING**

*17<sup>th</sup> July, 2023*

***Kahyoza, J.***

Maria Awe Aweda died intestate. Before her death, Maria Awe Aweda was occupying land measuring 6 acres. Following her death, John Aweda Qamuhe petitioned for letters of administration of the deceased's estate.

Before the court granted letters of administration of estate of the late Maria Awe Aweda to the petitioner, Petro Aweda Qamuhe and Sikukuu Aweda Qamuhe filed a caveat. The petitioner and caveators complied with the legal requirements, which led to the Court to order the petition to proceed as a civil suit under section 52 of the Probate and Administration Act, [Cap. 352 R. E 2002].

After court ordered the case to proceed as a civil suit and the petition and caveators became the plaintiff and the defendants, respectively, the Plaintiff's advocate submitted that parties have reached a settlement that before the plaintiff and defendants' father died, he distributed his estate *intervivos*. The parties' father had 30 acres which he distributed to his children as follows-

- (1) He gave 4 acres to each of his six sons, who are Hhawu Aweda Qamuhe, Slaqwara Aweda Qamuhe, Boay Aweda Qamuhe, John Aweda Qamuhe, Kwaslema Aweda Qamuhe and Sikukuu Aweda Qamuhe.
- (2) He gave 6 acres of land to his daughter and left to be occupied and used by his wives, the late Maria Awe Aweda during her life time. It was the parties' father's instructions that after his wife's demise, 6 acres shall be distributed to her daughters who are Paulina Aweda Qamuhe, Selina Aweda Qamuhe, Yasinta Aweda Qamuhe, Kristina Aweda Qamuhe, Selena Aweda Qamuhe and Balbina Aweda Qamuhe, his granddaughter.

The plaintiffs prayed the distribution *intervivos* done by the parties' late father to be respected by the donees. The defendants' advocate Mr.

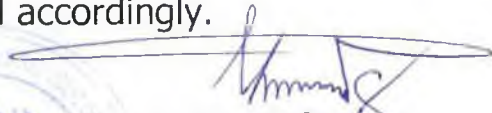
Masanja concurred with the plaintiff's advocate that there is nothing to be administered as part of the estate of the late Maria Awe Aweda. He concurred with the plaintiff's advocate that the parties' father distributed his estate during his life time to his children. He prayed the donees (beneficiaries) especially the plaintiff to be so advised.

Indisputably, the plaintiff (Petitioner) and the defendants (Caveators) have reached an amicable settlement that the late Maria Awe Aweda has no estate to be administered. The estate Maria Awe Aweda was part and parcel of her late husband's estate, which the latter disputed *intervivos*.

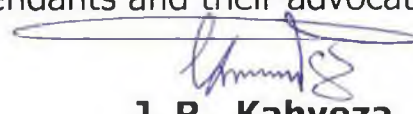
The 6 acres of land which the late Maria Awe Aweda occupied until her demise, were distributed by her husband *intervivos* by her husband their daughters. For that reasons, Maria Awe Aweda had no estate be administered. As the plaintiff and the defendants have agreed, the 6 acres of which the late Maria Awe Aweda occupied are the property of Paulina Aweda Qamuhe, Selina Aweda Qamuhe, Yasenta Aweda Qamuhe, Kristina Aweda Qamuhe, Selena Aweda Qamuhe and Balbina Aweda Qamuhe (the deceased's granddaughter) as distributed *intervivos* by their father. Parties to this matter are ordered to comply with the settlement order.

It is so ordered accordingly.



  
**J. R. Kahyoza**  
**Judge**  
**17/7/2023**

**Court:** The ruling was read and explained in the presence of the Plaintiff, his advocate, the defendants and their advocates. B/C Fatina present.

  
**J. R. Kahyoza**  
**Judge**  
**17/7/2023**