

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

TEMEKE SUB-REGISTRY (ONE-STOP JUDICIAL CENTRE)

AT TEMEKE

MISC. CIVIL APPLICATION NO 16 OF 2023

SABRA ALI AHMADA..... APPLICANT

VERSUS

THE LATE HAJI OMAR HAJI.....RESPONDENT

RULING

20th November & 20th December, 2023

BARTHY, J.

In the matter of the application for the re-sealing of probate in accordance with Tanzanian laws, brought before this court by Sabra Ali Ahmada, seeking to re-sealing of a foreign grant of probate.

The applicant has sought the re-sealing of a foreign grant of probate in conformity with Tanzanian laws, which recognise the validity of probate granted by foreign jurisdictions.

The legal foundation for re-sealing probate in Tanzania is grounded in section 94 and 95 of the Probate and Administration of Estate Act, Cap 352 R.E. 2019 (hereinafter referred to as PAEA). These provisions acknowledge the grants of probate or letters of administration issued by competent authorities of Commonwealth countries.

The application is found under sections 95 and 96 of the PAEA and is supported by the affidavit of the applicant, asserting that the deceased, Haji Omar Haji, was a resident of Zanzibar and passed away on 11th September 2021. The applicant was subsequently appointed by the High Court of Zanzibar at Vuga as the administratrix of the deceased estate under Probate Cause No. 4 of 2022.

The applicant, represented by advocate Maureen Kombo, submitted that the basis of this application lies in the administration of the estate of the late Haji Omar Haji, who resided and died in Zanzibar, but also held property in the Kinondoni municipality of Dar es Salaam.

Given that the applicant was appointed by the High Court of Zanzibar as the administratrix of the deceased estate, she seeks the court's indulgence to consider the application under sections 95 and 96 of PAEA, in conjunction with Rules 97 and 98 of the Probate Rules, to administer the estate on the mainland part.

Ms. Kombo further states that the applicant published the general citation through the government gazette dated 11th August 2023, and the Mwananchi newspaper dated 22nd July 2023, with wide circulation in the country. No caveat has been lodged against the applicant up to this point.

Ms. Kombo continued by stating that, since the family is content with the applicant, who is also the administratrix of the estate of the

deceased on the island part, she urged this court to grant the application, as it was duly made in accordance with the law.

In consideration of the arguments presented by the applicant's counsel, the essence of this application is to have the foreign grant of probate recognized and re-sealed by this court, thereby conferring legal effect within the jurisdiction of Tanzania.

This court has meticulously examined the relevant legal provisions and finds compliance with sections 94 and 95 of PAEA, as the grant of probate was issued by a probate court in the High Court of Zanzibar at Vuga, an island within Tanzania that is part of the Commonwealth.

The application, duly published in the government gazette dated 11th August 2023 and Mwananchi newspaper dated 22nd July 2023, along with the filing of the inventory under Rule 101 of the Probate Rules, satisfies the procedural requirements.

The applicant has provided sufficient evidence to validate the foreign grant of probate, and all legal prerequisites for re-sealing have been met. No legal impediments or objections have been raised against the re-sealing of the probate.

In light of the above findings, this court hereby grants the application for the re-sealing of probate of the foreign grant issued by the High Court of Zanzibar at Vuga to be recognized for Sabra Ali Ahmada to administer

within the jurisdiction of Tanzania. The deputy registrar is directed to affix the seal of this court to the probate following established procedures.

It is so ordered.

Dated at Dar es salaam this 20th December, 2023.



A handwritten signature in blue ink, appearing to read "G.N. Barthy".

G.N. BARTHY

JUDGE

Delivered in the presence of the applicant in person and Ms. Maureen Kombo learned advocate for the applicant.

Right to appeal is fully explained.