

**IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 266 OF 2023

(Arising from the Probate and Administration Cause No.76 of 2016)

JOHN SELEMANI MUSSA APPLICANT

VERSUS

ANTONY DAVID MTAVANGU 1ST RESPONDENT

ALLEN MOLLEL 2ND RESPONDENT

RULING

24th August & 24th November, 2023

BWEGOGGE, J.

The applicant above named instituted an application herein praying this court to revoke the letters of administration of the estate of the late Eva David Mtavangu granted to Antony David Mtavangu and Allen Mollel, the respondents herein, for failure to file inventory and accounts of the estate contrary to the law; be pleased to appoint the applicant herein as the sole administrator of the estate of the late Eva David Mtavangu; and any other

relief this court deems fit to grant. This application has been brought under the provisions of section 49(1)(d) (e) and 2 of the Probate and Administration of Estates Act, [Cap. 352 R.E 2019] (henceforth "the Act") and supported by the affidavit of the applicant.

The factual background of this matter, as gleaned from the affidavit deposed by the applicant and other pleadings filed hereto, may be stated thus: The applicant is the beneficiary of the estate and the husband of late Eva David Mtavangu with whom they contracted a Christian marriage at Dar es salaam on 3rd September, 2011. The applicant and the deceased were blessed with one issue namely, Glory John Mussa. Likewise, prior to her marriage with the applicant, the deceased had another child (applicant's step son) namely, Bidan David Mchao. Therefore, after her demise, the deceased person was survived with three beneficiaries above named and her biological mother.

The respondents herein, on 3rd April 2019, were both appointed to co-administer the estate of the late Eva David Mtavangu and they were ordered to file inventory within six months from the date of the appointment. However, the respondents failed to discharge their legal duty within the prescribed period. On 3rd June, 2020 this court granted the respondents

herein extension of time to file inventory in six months from the date of the order of the court. Likewise, despite the granted extension of time, the respondents herein failed to act together due to differences between them. Consequently, they failed to discharge their legal obligation jointly within the prescribed period. On 3rd December, 2020 the 2nd respondent purported to file inventory and accounts of the estates on his own, alleging lack of cooperation from the 1st respondent herein. The relevant documents were expunged from the record of the case for reason that the respondents had not worked jointly and, or agreed on matters purported to constitute the inventory and accounts of the estates. It has been the 1st respondent's complaint that argued that he failed to file an inventory on the ground that he had commenced civil proceedings in this court seeking to establish the legal ownership of the real property (House on Plot No. 258 and 260, Block C, Boko, herein Dare es Salaam) which is the centre of dispute between the parties in this matter. Unfortunately, all proceedings initiated by the 1st respondent herein were struck out on technical grounds.

It is the applicant's complaint that the 1st respondent has been willfully refusing to cooperate with the 2nd respondent, his co-administrator in this

matter and initiated a litany of proceedings in court with deliberate intention to impede conclusion of the probate proceedings herein for four (4) years now, to the detriment of the beneficiaries of the deceased's estate. Hence, this application.

The applicant was represented by Mr. Hamza Abraham Senguji, learned advocate. The 1st respondent was represented by Mr. Imam Hassan Daffa, learned advocate whereas the 2nd respondent fended for himself. The application was argued by written submissions.

In substantiating the application herein, Mr. Senguji opened his submission by charging that the 1st respondent's counter-affidavit contains false allegations; hence, bad in law, and it is not worthy the consideration by this court for lacking status of being the affidavit in law.

Submitting on the merits of application, the applicant's counsel alleged that the respondents herein have failed to submit the inventory and final accounts; and there is serious misunderstanding between them which hinders them to work together in preparation of the inventory and accounts of the estates for the good of the heirs of the deceased person. That the

respondents' failure to discharge their legal duty expose the estate to the danger of deterioration, apart from stressing the applicant with endless court proceedings. Hence, the respondent's acts make the grant of letters of administration to be useless and inoperative as per sections 49(1)(d) and (e) of the Probate and Administration of Estates Act. Likewise, the counsel opined that the respondents herein have violated their oath and betrayed the deceased family. The counsel cited the cases; **Franscica Joseph Chuwa vs. Kennedy Chua** (Misc. Civil Application 60 of 2019) [2021] TZHC 7564 to bring his point home.

Further, the counsel argued that this court having extended the time for the respondents to file inventory and accounts of the estate, the same not only failed to discharge their legal duty but also never demonstrated reasons which prevented them to discharge their legal duty within the prescribed period. Therefore, the counsel asserted that the respondents contravened the provisions of section 107(1) and (2) of the Probate and Administration of Estates Act. And, as the same failed to comply the court orders, their non-compliance amount to offence pursuant to section 107(3) of the Act. Hence, the grant of the probate is tainted with illegalities and became useless and

inoperative in terms of section 49(1) (d) and (e) of the Act.

In the same vein, the counsel alleged that the 1st respondent willfully and without reasonable cause hindered the proper administration of estate by filing frivolous cases (Misc Civil Application No 632 of 2020 and Land Case No 92 of 2022) which were both struck out; and communicated with the deputy registrar (vide a letter with reference No. AA/2023/28A) with intention to prevent the closure of the probate proceedings pending in this court (Probate Case No. 76 of 2016). That the same has willfully shown acts of dishonest. The counsel concluded that, based on the foregoing, both counsel are at fault and the only remedy available to the respondents is to revoke their appointment. The case of **May Mgaya vs. Salim Mwalimu** (Civil Appeal 264 of 2017) [2019] TZCA 12 was cited to validate the prayer.

Apart from the above, the applicant's counsel submitted that, if this court is pleased to revoke the grant of probate to the respondents; then appointing the administrator general or the minors herein is not the best option. He opined that the applicant herein is a suitable candidate to be appointed as administrator of the deceased the estate for reasons that: **One**, he is the husband of the deceased and the house in dispute is the matrimonial home;

two, he is a beneficiary along with the two above mentioned children; **three**, the 1st respondent is neither living with any of the children nor their guardian but his aggressive pursuit of multiple cases and false allegations to the applicant raises doubt whether he is acting genuinely for the interest of beneficiaries; **four**, the applicant is capable of administering the estate for the interests of his children. In supporting his assertions, the counsel cited the case of **Shaban Mussa Mhando vs. Esther Msafiri Mhando**, Probate and Administration Cause No. 75 of 2020 [2021] TZHC 6077.

In reply, Mr. Daffa, counsel for the 1st respondent, likewise, alleged that the 2nd respondent's counter affidavit is fatally defective as it was not sworn before a commissioner for oath. That the 2nd respondent signed his counter-affidavit on 4th July, 2023 and was attested by the advocate on 5th July, 2023. Hence, the 2nd respondent's counter-affidavit was not properly sworn before the commissioner for oath. The counsel supported his argument by citing the case of **Zuberi Mussa vs. Shinyanga Town Council** (Civil Application 100 of 2004) [2007] TZCA 181.

Further, the counsel charged that applicant's affidavit bear depositions aimed to move the court in the first application for revocation but omitted the

depositions in respect of the second prayer for his appointment to administer the deceased's estate. Hence; the prayer to appoint the applicant to administer the deceased's estate contravenes the provisions of Order XLIII, rule 2 of the Civil Procedure Act [Cap. 33 R. E. 2019]. In buttressing his point, the counsel cited the case of **Anatol Peter Rwebangira vs. The Principal Secretary, Ministry of Defence and National Service and the Attorney General** (Civil Application 548 of 2018) [2019] TZCA 106. In the same vein, the counsel argued that the proposition made by the applicant's counsel in that the applicant is fully capable of responsibly administering the deceased's estate amounts to submission from the bar as no fact to that extent was deposed by the applicant in his affidavit supporting the application herein. That it is a trite law that an advocate cannot submit on facts which are not pleaded in the affidavit. The case of **Rosemary Stella Chambejairo vs. David Kitundu Jairo** (Civil Reference 6 of 2018) [2021] TZCA 442 was cited to validate the point.

Reverting to the merit of the application, the 1st respondent's counsel conceded that there is no dispute the respondents herein who are the co-administrators of the deceased's estate have failed to file inventory despite

being granted extension of time to that effect. That the provision of section 49(1) (e) of the Act which is the appropriate law to be applied under the circumstance of this matter; but before revocation, the court is obliged to satisfy itself that the failure to file inventory by the respondents is willfully and without reasonable cause.

Further, the counsel enlightened this court that the reason for failure by the respondents to file inventory is the dispute over the ownership of a landed property on Plot No. 258 and 260 Block "C" Boko, Kinondoni Dar es Salaam (Title No. 57454). That the 1st respondent is of the view that the property was whole owned by the deceased and it should be listed in the estate of the deceased whereas the 2nd respondent is of the view that only a half of the property should be listed in the estate as the other half is entitled to the applicant for his contribution on its acquisition. That these conflicting views can vividly be noted in the affidavits of both respondents herein. That strangely, the rejected inventory indicates that item number 1 thereof is 50% monetary value of the matrimonial house with estimate value of 160,000,000/, without explanation on how the 2nd respondent came up with the value of the property. The counsel opined that the impugned stance of

the 2nd respondent is the only and main hindrance to non-filing of the inventory. That the impugned stance demonstrated by the respondent has been consented by the applicant herein, who is his uncle. Hence, the 1st respondent found it prudent to establish the deceased's ownership of the property before filing the inventory though his endeavour proved futile on technical aspect of the law. Therefore, under these circumstances, the respondents could not file inventory unless there is an order of the court as to the ownership of the disputed landed property.

In the same vein, the counsel enlightened this court that the house in dispute, of which the applicant claims entitlement to half of its value, was given to the deceased 7 years before she married the applicant. Hence, it is only the court which can determine the applicant's purported contribution to the property as he claims. The counsel concluded that the controversy over the ownership of the disputed property is the very reason that the inventory could not be filed in the respective probate proceedings. And, the counsel opined that, in event this court revokes the respondents' appointment, the applicant is not a right person to be appointed to administer the deceased estate.

On part of the 2nd respondent, it is his submission in his reply that he admit the fact that they failed to exhibit joint inventory and accounts of the estate as required by the law though he is not at fault. That he discharged his duties in accordance with the law but lacked cooperation from the 1st respondent and his efforts to involve the applicant proved futile. Therefore, he opined that failure to file inventory and accounts was caused by the willful acts of the 1st respondents. And, the 2nd respondent asserted that, if both respondents are revoked, the law gives paramount priority to the applicant who has interests in the deceased's estate. He cited the case of **Sekunda Mbwambo vs Rose Ramadhani** [2004] TLR 439 to bolster his assertion.

In rejoinder, Mr. Senguji contended that the 1st respondent's counsel improperly raised objections during his submission in reply without lodging notice to that effect. Therefore, this court should disregard the impugned objections improperly raised. Otherwise, the applicant's counsel contended that the applicant herein has properly moved the court in his prayer to be appointed the administrator of the estates, as he deponed facts pertaining to his status as the husband of the deceased and one of the beneficiaries of the estate. That, moreso, the provisions of sections 33(1) and 49(2) of the

Act empower this court to appoint any person as administrator notwithstanding the wanting formal application to that effect. In respect of the disputed ownership of property constituting the deceased's estate, the counsel contended that in the Land Case No. 192 of 2022, the trial judge ruled that there is no dispute of ownership of the property in the respective probate proceedings. Therefore, if the 1st respondent was aggrieved with the decision of the court, the only remedy available to the same is to appeal.

The counsel concluded by directing the mind of this court to the decision in the case of **Joseph Shumbusho vs. Mary Grace Tigana & Others** (Civil Appeal 183 of 2016) [2020] TZCA 1803 for criteria to be considered in determining who may be the appropriate person to be appointed to administer the deceased's estate. This is all about the submissions of the parties to this case.

Now, this court is obliged to address two issues, namely: -

1. Whether the grant of probate to the respondents herein may be revoked for their failure to discharge their legal obligation as co-administrators within the statutory period.

2. (If the 1st issue is answered in affirmative, then) Who is the proper person to administer the deceased's estate.

Before canvassing the above raised issues, I find it pertinent to respond to the charges made by the counsel for the applicant and 1st respondent herein in respect of the validity of the affidavits/counter-affidavits filed by the parties herein. In substance, the counsel for the applicant charged that the facts deposed in the affidavit of the 1st respondent contains false and extraneous matters; hence, not the proper legal documents worth to be considered by this court. Likewise, the 1st respondent's counsel charged that the 2nd respondent's counter affidavit is fatally defective for reason that the 2nd respondent was not properly sworn before a commissioner for oath. The mainstay of this allegation stemmed on purported fact that the commissioner for oath purported to have sworn the 2nd respondent the later day from the day the 2nd respondent signed his depositions. This omission, in the opinion of the 1st applicant's counsel, occasioned fatal defect on the impugned counter – affidavit.

The above revisited charges need not detain me. It suffices to point out that in essence, the submissions made by both counsel on above charges are based on points of law which required filing formal notice to that effect before parties herein were called upon to submit thereon. The submissions on purported points of law offended against the rule eliminating surprise in the court of law. Such practice is prejudicial to the court and other party for being taken by surprise, which is sternly discouraged [**Commissioner General (TRA) vs. Pan African Energy (T) Ltd**, Civil Application No. 206 of 2016 (unreported) and **Hon. B.P. Mramba vs Leons S. Ngalai & The Attorney General** [1986] TLR 182]. As the purported points of law were not formerly raised hereto, arguments made thereon amounts to submissions from the bar. And, I need not attend the same at this eleventh hour.

Now, I proceed to delve into the 1st issue raised above. It is the applicant argument that the respondents grant of letters of administration has become useless and inoperative for failure to file inventory even after the grant of extension of time. Hence, the grant should be revoked.

I find constrained, at the outset, to restate the obligation imposed by law upon an executor or administrator/administratrix of the deceased's estate. The provisions of Section 107(1) of the Probate and Administration of Estates Act provides as under:

"S. 107

1. *An executor or administrator **shall, within six months from the grant of probate or letters of administration,** or within such further time as the court which granted the probate or letters may from time to time appoint or require, **exhibit in that court an inventory containing a full and true estimate of all the property in possession,** and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and **shall in like manner, within one year from the grant or within such further time as the court may from time to time appoint, 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. (Emphasis mine).*

It is apparent on the face of the above reproduced provision that the appointed executor or administrator/administratrix of the deceased's estate is vested with a mandatory legal duty to exhibit in the court that granted the

letters of administration of the estate an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character. The appointed administrator/administratrix of the deceased's estate is required to discharge the duty mentioned above within a prescribed period of six months from the grant of probate or letters of administration, or within such further time as the court which granted the probate may provide. Further, the provision of the law cited above, in no uncertain terms command that the executor or administrator/administratrix of the deceased's estate is likewise obliged to 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, within one year from the grant or within such further time as the court may from time to time appoint.

The above revisited provision of the law is appositely restated by the apex Court in the case of **Godless Mathew Naibala vs. Annet John M.N. Lukumay** (supra) as follows:

*"It should be noted that section 107(1) (of the Probate and Administration Act, Cap. 352 R.E 2002 of the laws) requires a grantee of probate or letters of administration to perform two functions within set time limits. **The first function is to***

exhibit in the appointing court an inventory of a full and true estimate of the estate within the six months of the grant, and the second function is to exhibit an account of the estate showing the assets which have come into his/her hands and how he/she has applied them or disposed of them."

Likewise, the law requires the administrators of the deceased's estate to take oath that he/she, in execution of his/her legal duty, will faithfully administer the estate of the deceased and account for the same. See in this respect the case of **Shumbusho vs. Mary Grace Tigerwa and 2 Others**, Civil Appeal No. 183 of 2016 [2020] TZCA 1803.

In the same vein, the law enjoins the court with the power to revoke the granted letters of administration of the estates of the deceased person to the administrator/administratrix of the deceased's estate based on prescribed grounds stated under the provisions of section 49 (1) of the Probate and Administration of Estates Act. The stated reasons under the relevant section are as under:

"S. 49

1. The grant of probate and letters of administration may be revoked or annulled for any of the following reasons-

(a) N/A

(b) N/A

(c) N/A

(d) *that the grant has become **useless and inoperative;***

(e) *that the person to whom the grant was made **has willfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Part XI or has exhibited under that Part an inventory or account which is untrue in a material respect.**"*

Based on the submission of both parties herein, it is not in dispute that the administrators (respondents herein) failed to file inventory and final accounts within prescribed period contrary to the law and orders entered by this court in the respective probate proceedings. The extension given to the respondents herein to discharge their legal obligation could not rescue the situation. Likewise, it is not disputed that the respondents are deeply at logger heads. The same cannot amicably work together and, or agree in execution of their legal obligation due to their vested interests and mistrusts. The 1st respondent alleges the 1st respondent to have been subservient to the applicant herein by presenting the inventory apportioning the applicant

with unreasonable entitlements to the real property constituting the deceased's estate constraining the 1st respondent to seek court pronouncement on the legality of the 2nd respondent's action which resulted into delay of conclusion of the respective probate proceedings. Conversely, the 2nd respondent herein accuses the 1st respondent for deliberately delaying the proceedings by his tendency in initiating multiplicity of applications seeking court's pronouncement in respect of the ownership of the disputed property of which, in his opinion, is not an issue before the presiding probate court. The soundness of explanations given by the respondents for their failure to discharge their legal duty notwithstanding, it remains apparently clear that the differences between the same are irreconcilable. As I previously stated, there is no way the respondents herein can work together in the administration of the deceased's estate to the detriment of the beneficiaries herein. Therefore, it goes without saying that the grant of probate has been rendered useless and inoperative for the consecutive four years now in terms of the provisions of section 49 (1) (d) of the Act. It suffices to conclude that both respondents herein, as co-administrators, they are jointly responsible for failure to discharge their legal obligation within the prescribed period **[May Mgaya vs. Salim Mwalimu**

(supra)]. Notwithstanding the conclusion that the grant of probate has been rendered useless and inoperative, based on the circumstances of this case, I find no cogent ground(s) to find the respondents' failure to discharge their legal obligation willful and, or without reasonable cause. I find the 1st limb of the prayer made by the application with substance.

At this juncture I proceed to tackle the 2nd and pertinent issue in this matter on whether the applicant may be appointed as administrator of the deceased's estate. It is worth noting that the 1st respondent vehemently contested the prayer whereas the 2nd respondent in supporting the prayer opined that the applicant is a fit person to administer the estate.

Primarily, I would like to address the concern raised by the 1st applicant's counsel in that the applicant has only managed to move the court in respect of the first application for revocation of the grant of probate to the respondents but failed to do so in respect of the second prayer for appointment to administer the deceased property. Hence, the applicant's counsel submission on matters not deposed amounts to submission from the bar. Admittedly, it is the law that counsel's submission in respect of the matter of like nature, should be confined to the elaboration/explanation of

the matters deposed in the affidavit/counter-affidavit which are in substance considered to be the evidence [**Rosemary Stella Chambejairo vs. David Kitundu Jairo (supra)**]. Short of that, the submission by the counsel on matters not deposed in the supporting affidavit amounts to submission from the bar. However, as rightly submitted by the applicant's counsel, having revoked the respondents grant to the probate, I am obliged to appoint a fit person to administer the deceased's estate. Therefore, I would regard the submission made by the applicant's counsel in this respect as his considered opinion on who should be appointed to administer the deceased's estate.

That said, I revert to the discussion of the 2nd issue. Unarguably, it is the law that the administration of the deceased's estate should be granted to the person with greater and immediate interest in the probate. See the cases; **Shumbusho vs. Mary Grace Tigerwa and 2 Others** (supra); **Seif Marare vs. Mwadawa Salum** [1985] TLR 253; and **Shabani Mussa Mhando vs. Esther Msafiri Mhando**, Probate and Administration Cause No. 75 of 2020, HC (unreported), among others. In the same vein, section 33(1) of the Probate and Administration of Estates Act provides thus:

"Where the deceased has died intestate, letters of administration of his estate may be granted to any

person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate."

In tandem to above, the Apex Court in the case of **Joseph Shumbusho vs. Mary Grace Tigerwa & 2 Others** (Civil Appeal 183 of 2016) [2020] TZCA 1803 enunciated the guideline that, in granting probate, regard shall be have to:

1. *"To a person who applies would be entitled to the whole or part of such deceased's estate according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased (See section 33 (1) of the Probate and Administration Act), or*
2. *Where there are two or more petitioners, priority should be given to the greater and immediate interests in the deceased's estate than to a lesser or remote interests (See section 33 (2) of the Probate and Administration Act), or*
3. *Where necessary or convenient to appoint any other person apart from the would be entitled to a grant of administration, consideration should be on the consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered (See section 33 (4) of the Probate and Administration Act)."*

In view of the foregoing, admittedly, the applicant herein has greater and immediate interest in the property than any of the remaining beneficiaries. Now, the pertinent question arising herein is whether the applicant herein should be granted letters of administration of the deceased's estate for the interest of the beneficiaries? The following are my observations: **First**, in probate proceedings, the law requires the administrator(s) appointed to exhibit the inventory in the appointing court of a full and true estimate of the estate which came into his/her possession. At this stage, the administrator is not required to indicate on how he/she has distributed the estate to the beneficiaries. Later on, the administrator is required to exhibit an account of the estate showing the assets which have come into his/her hands and how he/she has applied them or disposed of them. This is the gist of the provision of section 107 (1) of the Probate and Administration Act. Strangely, the stance manifested by the 2nd respondent in apportioning entitlement of the applicant on the property constituting the probate, as evidenced by the impugned inventory filed in court, is contrary to the laid down procedure. This has been the mainstay of the controversy between the administrators herein which has rendered the probate proceedings stalled. **secondly**, I have taken time to go through the counter affidavit filed

by the 1st respondent. As rightly contended by the counsel for the 1st applicant in his submission in reply, the *annexture ADM 7* speak volumes the fact that the 2nd respondent presented 50% only as the value of the deceased property categorized as matrimonial house. No account pertaining the remaining half was furnished. Seemingly, the property has already been distributed prior to filing the inventory. And the applicant is one of the beneficiaries to the remaining half of the value of the property by 1/3. The 1st respondent had viciously resisted the proposition of the 2nd respondent to the extent of filing land matter to have court determination on ownership of the property between the deceased and the applicant herein. For that reason, he refrained to approve the purported inventory and final accounts. Likewise, it is for this very reason I refrained to condemn the 1st respondent for his endeavour taking into consideration the abortive actions of the 2nd respondent. **Thirdly**, it is the applicants' depositions and his counsel's argument in that the applicant is not involved in the distributions and, or contentions raised by the 2nd respondent. However, the family meeting minute sheets entails that the 2nd respondent was appointed a co-administrator to balance interests, in favour of the applicant. This court finds it hard to believe that the 2nd respondent has been acting independently in

such an unusual way. Be that as it may, the applicant would not have tolerated the delay for four years without inquiring on abortive actions of the 2nd respondent. I, therefore, apprehend that the failure on part of the respondents to jointly discharge their administrative obligation, especially for the 1st respondent, were instigated by the applicant. **Fourthly;** the 1st respondent's counsel has disclosed in his submission in reply that the landed property in dispute was obtained several years prior to contraction of marriage between the deceased and the applicant herein, hence, the applicant's purported contribution is unfounded. This fact remains uncontroverted.

In view of the foregoing observations, I find the proposition made by the applicant's counsel in that the applicant herein is a suitable person to administer the estate untenable. I would subscribe to the assertion made by the counsel for the 1st respondent in that, based on the circumstances of this case, the applicant would not be suitable person to administer the deceased's estates. I am of the settled view that a third party and, or an independent person would be suitable to administer the deceased's estate in the interest of all beneficiaries.

And, taking into consideration of the nature of probate, competing interests involved, and the period on which the probate proceedings remain pending in court to the detriments of the beneficiaries, I hereby invoke the provision of section 49 (2) of the Probate and Administration of the Estates Act and appoint the Administrator General to administer the deceased's estate.

In fine, I hereby allow the application for revocation of the letters of administration of the estate granted to the respondents herein for reason that the grant has been rendered useless and inoperative to the detriment of the beneficiaries. It has been demonstrated that, based on irreconcilable differences between the respondents herein, the same cannot discharge their legal obligation they were vested with to the disadvantage of the beneficiaries. Otherwise, I find the 2nd limb of the prayer made by the applicant untenable. Accordingly, I hereby enter orders as follows:

1. The grant of the letters of administration of the estate of the late Eva David Mtavangu to **ANTONY DAVID MTAVANGU** and **ALLEN MOLLEL** is hereby revoked.

2. I hereby appoint the **ADMINISTRATOR GENERAL** to administer the deceased's estate for the benefit of all the beneficiaries involved. The same shall be obliged to exhibit inventory and accounts of the deceased's estate within the statutory period.
3. The respondents shall hand over the relevant documents related to the deceased estate which came into their possession by virtue of their position as administrators of the deceased's estate to the **ADMINISTRATOR GENERAL** to enable him execute his vested legal obligation.
4. The respondents to surrender the letters of administration of the deceased estate to the court which made the grant.
5. No order as for costs.

So ordered.

DATED at **DAR ES SALAAM** this 24th November, 2023.



A handwritten signature in blue ink, consisting of stylized initials and a long horizontal stroke.

O. F. BWEGOGGE

JUDGE