

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
DAR ES SALAAM SUB-REGISTRY**

MISC. CIVIL APPLICATION NO. 000001668 OF 2024

IN THE MATTER OF PERSONS WITH DISABILITIES ACT 2010

**IN THE MATTER OF PERSON OF UNSOUND MIND RAHMAN KASSIM DADI
alias SARAH KASSIM DADI *alias* SIJALI KASSIM DADI**

**IN THE MATTER OF APPLICATION FOR APPOINTMENT AS A NEXT FRIEND BY
SIRAJU AZIZI RAJABU.....APPLICANT**

RULING

Date of last Order: 2-2-2024

Date of Ruling: 23-2-2024

B.K. PHILLIP, J.

This application is made under Order 31 Rule 1, 3 (2), (3), 4 (1), 5 (1) of the Civil Procedure Code ("CPC") and section 15 (1) of The Persons With Disabilities Act, 2010. The application is supported by an affidavit sworn by the applicant, Mr. Siraju Azizi Rajabu. The applicant's prayers are as hereunder;

(a) That this Honourable Court may be pleased to appoint the Applicant as a next friend of a person of unsound mind Rahma Kassim Dadi *alias* Sara Kassim Dadi *alias* Sijali Kassim Dadi.

(b) Costs of this application.

(c) Any such further relief(s) may this Court deem fit and just to grant.

The learned Advocate Mganga Paul appeared for the applicant. In his submission Mr. Mganga prayed to adopt the contents of the affidavit in support of this application. Moreover, he pointed out the following; that the physical and mental condition of Rahman Kassim Dadi *alias* Sarah Kassim Dadi *alias* Sijali Kassim Dadi (the Victim) is deteriorating day after day due to the injuries she sustained in the accident which led to her mental disorder thus, she is unable to manage her affairs. Mr. Mganga contended that , it is important that a next friend be appointed by this court in order to assist the victim to pursue her legal rights.

Expounding on the power conferred to this court by the law in matters of this nature, Mr. Mganga argued that section 15(1) of The Persons With Disabilities Act, 2010 read together with Order 31 Rule 15 of the CPC confer power to this court to appoint a next friend for person of unsound mind. He pointed out that the applicant is the son in law of Rahman Kassim Dadi *alias* Sarah Kassim Dadi *alias* Sijali Kassim Dadi currently taking care of her. He maintained that this application has merit and urged this court to appoint the applicant as the next friend of Rahma Kassim Dadi *alias* Sara Kassim Dadi *alias* Sijali Kassim Dadi.

The position of the law is that a minor or a person of unsound mind has to sue by a next friend or guardian (See Order 31 Rule 1 and 2 of the CPC). The procedures for institution of cases by minors or people of unsound mind are provided in Order 31 Rule 1 to 15 of the CPC and the same confer to

this court power to appoint a guardian/next friend for minors or people of unsound mind.

I have perused the affidavit in support of this application and the medical report from Muhimbili Orthopaedic Institute ("MOI") annexed thereto. The same shows that Rahma Kassim Dadi *alias* Sara Kassim Dadi *alias* Sijali Kassim Dadi sustained injuries in an accident. She has healed with recurrent headache, dizziness, blurring of vision on and off, and 34% permanent total incapacity, thus I am satisfied that she needs a next friend to assist her to pursue her rights.

From the foregoing, I hereby grant the order sought in this application. The applicant is appointed as a next friend of Rahma Kassim Dadi *alias* Sara Kassim Dadi *alias* Sijali Kassim Dadi.

Dated this 23rd day of February 2024


B.K.PHILLIP

JUDGE.

