

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

AT DAR ES SALAAM

MISCELLANEOUS CIVIL APPLICATION NO. 500 OF 2023

**(Originating from Probate and Administration Cause No. 07 of
2002)**

IN THE MATTER OF THE ESTATE OF THE LATE A.OBED MACHA

AND

**IN THE MATTER OF AN APPLICATION FOR EXTENSION OF TIME OF
THE ADMINISTRATION OF THE ESTATE OF THE LATE AMINIEL**

OBED MACHA BY ELIAPA AMINIEL MACHA

RULING

28th & 29th February, 2024

DYANSOBERA, J.:

This is an application for extension of time in which to file an account and inventory of the deceased's estate in regard to Probate Cause No. 07 of 2002 whereby the applicant Eliapa Aminiel Macha, on 18th June, 2002 was granted letters of administration. The application has been preferred under Section 107 of the Probate and Administration of the Estates Act [CAP 352 R.E.2002] and Section 14 of the Law of Limitation Act [CAP 89 R.E.2019]. An

affidavit sworn by Eliapa Aminiel Macha, the applicant, has been filed in support of the application.

At the time of hearing of this application, Ms. Utti Mwang'amba, learned Counsel for the applicant, after detailing how the deceased's estate was administered by the applicant, informed the court that after the distribution the heirs successfully endeavoured to transfer the property from the name of the deceased into their names save Ovena @ Elineema Aminiel Macha who, after making a follow, was required to submit some court documents but that when she contacted the applicant, the latter had no such documents.

With regard to the reason for the delay to submit the accounts of the estate and inventory in time, Counsel for the applicant argued that she was sick and had to be rushed to India for treatment and believed that the letters and minutes she had submitted were sufficient to have the Probate and Administration cause closed. Counsel for the applicant further argues that she is aware that extension of time is within the discretion of the court and that the applicant has, in her affidavit in support of the application, managed to prove the reasonable cause sufficient to enable the court exercise its discretion in her favour. To buttress her argument, she placed reliance on the cases decided by the Court of Appeal and this court and maintained that the applicant was diligent in pursuing the matter.

Having heard and considered the submission of learned Counsel for the applicant and after going into the material before me, I am in doubt that the application has merit. Section 107 of the Probate and Administration of Estates Act [CAP.352 R.E.2002] provides that:

'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.

Under Rule 106 of the Probate Rules, the inventory to be exhibited by either the executor or administrator under Section 107 of the Act shall be in Form 80 set out in the First Schedule.

According to sub-rule (1) of Rule 109 of the Probate Rules, an application for extension of time to exhibit an inventory or account shall be made by chamber summons supported by an affidavit stating the reasons for such application.

In view of the fact that the applicant has complied with what the law requires since the application is uncontested, an extension of time is granted as prayed in the chamber summons.

It is order that an inventory and the accounts of the deceased's estate be exhibited in this court by the applicant under Section 107 of the Probate and Administration of Estates Act not later than six months from the date of delivery of this ruling.



A handwritten signature in blue ink, appearing to read 'W.P. Dyansobera'.

W.P. Dyansobera

Judge

29.2.2024

This ruling is delivered at Da es Salaam under my hand and the seal of this Court on this 29th day of February, 2024 in the presence of Ms. Utti Mwang'amba, learned Counsel for the applicant and Oliva Aminiel Macha, Elimensa Aminiel Macha and Ovena @ Elineema Aminiel Macha, the heirs.



A second handwritten signature in blue ink, identical to the one above.

W.P. Dyansobera

Judge