

IN THE HIGH COURT OF TANZANIA

TEMEKE SUB – REGISTRY

(ONE STOP JUDICIAL CENTRE)

AT TEMEKE

MISCELLANEOUS CAUSE NO. 11318 OF 2024

(Originating from Probate and Administration Cause No. 250 of 2022)

In the matter of the estate of the late

ANABELL NJERI NKYA.....DECEASED

AND

In the matter of an application for revocation of the
letters granted to Patricia Ismail Matogo by

EMMANUEL JOCTAN MATOGOAPPLICANT

VERSUS

PATRICIA ISMAIL MATOGORESPONDENT

RULING

Date of last order: 03/06/2024
Date of Ruling: 03/06/2024

OMARI, J.

This is an Application for revocation of the letters of administration granted by this court to the Respondent, Patricia Ismail Matogo on 02 March, 2023. The main reason advanced by the Applicant, Emmanuel Joctan Matogo is that the Respondent has been unable to effectively perform her duties as an Administratrix of the estate of the late Anabell Njeri Nkya. This is because she has health

problems and a demanding work schedule, both of which make it difficult for her to perform her duties as the Administratrix.

The Respondent did not contest the Application, her advocate Mr. Peter Bana impressed upon this court that the estate stands in great danger if her replacement is not appointed urgently for there are several pending cases in various courts and tribunals which stand to be dismissed if no one is appointed to step in the shoes of the deceased.

Mr. Benedict Mutta, the Applicant's advocate submitted that his client can effectively administer the estate and, because he is willing to do so, should be appointed. Mr. Mutta also informed this court that the Applicant is not a stranger to the estate for the Respondent is his mother, making him a grandchild of the deceased.

Having considered the Applicant's Affidavit and submission by Mr. Mutta and the Counter Affidavit and submission by Mr. Bana the only issue for determination is whether the Application is meritorious and if so what is the way forward.

An administrator, appointed by a court has very specific duties to perform in so far as an estate of the deceased is concerned. This includes but is not limited to identifying and collection of assets (the estate), identifying creditors and paying off the debts if any, identifying the heirs and distributing to them the estate after

he or she has filed the inventory and accounts then close the administration. Failure to do any of this endangers the estate as well as the rights of the would-be beneficiaries or heirs as the case may be. To remedy such situations, this court is empowered by section 49 of the Probate and Administration of Estates Act, Cap 352 R.E 2002 (the PAEA) to revoke a grant of letters of administration. Section 49(2) of the PAEA states:

"(2) Where it is satisfied that the due and proper administration of the estate and the interests of the persons beneficially entitled thereto so require, the High Court may suspend or remove an executor or administrator (other than the Administrator-General or the Public Trustee) and provide for the succession of another person to the office of such executor or administrator who may cease to hold office, and for the vesting in such person of any property belonging to the estate." (emphasis supplied)

From the above, it is clear that among other things a court may remove an administrator if it is of the view that that due and proper administration of the estate and the interests of the beneficiaries or heirs thereto require such removal.


In the current Application, the Respondent who is the current Administratrix of the estate of the late Anabell Njeri Nkya has admitted that she is unable to effectively continue with the administration. The Applicant is ready and willing to succeed her in that role. This will not only relieve the Administratrix of the duty but also protect the estate of the deceased from the ensuing danger posed by the current Administratrix's failure to effectively administer the estate. This, in my

view, preserves the interests of both the estate and the heirs. Consequently, I see no reason not to grant the Application.

The Application is hereby granted, Patricia Ismail Matogo is hereby removed from the office of the Administrator of the estate of the late Anabell Njeri Nkya. She is forthwith ordered to surrender her grant. The Applicant herein is ordered to comply with the requirements of sections 66 and 67 of the PAEA as well as Rule 69 and 71 of the Probate Rules GN. No. 369 of 1963 on or before 05 June, 2024. This being a probate matter no order as to costs is made.


It is so ordered.




A.A.OMARI
JUDGE
03/06/2024

The Ruling was delivered on the 3rd Day of June, 2024.




A.A.OMARI
JUDGE
03/06/2024