

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(TABORA SUB-REGISTRY)**

AT TABORA

MISC. PROBATE AND ADMINISTRATION APPLICATION NO. 5076 OF 2024

(Arising from Probate and Administration Cause No. 01 of 2021)

In the Matter of the Estate of the Late JOSEPH ALOYCE NDAMCHO

AND

In the Matter of an Application by AURELIA JOSEPH NDAMCHO, Legal Executrix of the Estate, for an Extension of Time within which to File an Inventory and Accounts in Respect of the Estate of the Late JOSEPH ALOYCE NDAMCHO

Date of Last Order: 29.05.2024

Date of Ruling: 18.06.2024

RULING

KADILU, J.

The applicant filed this application praying for the court to grant her an extension of time within which she may file an inventory and accounts regarding the estate of her late husband, Joseph Aloyce Ndamcho. Supported by her affidavit, the application has been brought under Rule 109 (1) of the Probate Rules, G.N. No. 10 of 1963, Section 95 of the Civil Procedure Code [Cap. 33 R.E. 2019]. The applicant stated in her affidavit that she was appointed by this court as an Executrix of the estate on 08/07/2022. In the grant, the court ordered the applicant to file an inventory within six months and exhibit an account of the estate within twelve months after the appointment.

She averred that she managed to accomplish the execution duties beyond the stipulated time due to among others, the deceased's estate being scattered in various places and the health challenges that she had

encountered immediately after her appointment. She attached numerous medical documents to prove her assertion.

The application being non-contentious, it was heard *ex parte* under the dictates of Rule 14 (1) of the Probate and Administration of Estate Rules. When the application was called on for hearing, Mr. Akram Magoti, learned Counsel for the applicant appeared to argue the application. He prayed for the court to adopt the applicant's affidavit as an alternative to oral submission. For that matter, the court had to consider the grounds outlined in the affidavit and determine whether the applicant has demonstrated a good cause for the delay sufficient for this court to grant her an extension of time.

The court appointed the applicant as an executrix of the estate of her late husband upon her undertaking to administer the estate timely and to make a full and true inventory and statement of account in this court within the ordered time or at any other time as the court may from time to time appoint. A duty to make full and true inventory and account to court is provided under Section 107 (1) of the Probate and Administration of Estates Act, [Cap. 352 R.E. 2019]. The relevant provisions that empower the court to extend time in the circumstances of the present application are Rule 109 (1) and (2) of the Probate Rules which require the application to be made by chamber summons supported by an affidavit, to state the reasons for the application, and to be made before the expiry of the period within which the executor or the administrator is required by the court to file the inventory or account under section 107 (1) of the Probate Act.

I have examined the affidavit and found that the applicant did not comply with Rule 109 (1) of the Probate Rules in lodging the present application because she applied for an extension of time after the time granted to her by the court had long expired. However, the law permits the court to grant the applicant an extension of time upon advancing good and sufficient cause for the delay. The applicant stated the reasons that delayed her in filing an inventory and account, including her ill health. Without much ado, the aforementioned reasons have satisfied the court that the applicant has shown sufficient reasons for the delay.

Therefore, this court grants the applicant thirty (30) days from today within which to file an inventory and final accounts of the deceased's estate. In case she fails to file an inventory and final accounts within the granted time limit, the court shall revoke her appointment for failure to perform her execution duties. The application being in the nature of probate and uncontested, I make no order as to costs.

It is so ordered.


KADILU, M.J.
JUDGE
18/06/2024

The ruling delivered in chamber on the 18th Day of June, 2024 in the presence of Mr. Kelvin Kayaga, holding brief for Mr. Akram Magoti, Advocate for the applicant.




KADILU, M.J.
JUDGE
18/06/2024