

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(ARUSHA SUB-REGISTRY)

AT ARUSHA

PROBATE AND ADMINISTRATION CAUSE NO. 24 OF 2023

IN THE MATTER OF THE ESTATE OF THE LATE EGNA JOHN MALIBICHE

AND

IN THE MATTER OF AN APPLICATION FOR LETTERS OF ADMINISTRATION

BY GRACE ELIAS MKETO.....PETITIONER

JUDGMENT

07 & 11/03/2024

KIWONDE, J.:

The petitioner, Grace Elias Mketu, petitioned for grant of letters of administration of the estate of the late Eгна John Malibiche. Upon issuance of the citation, there was no caveat raised and the matter became ripe for hearing.

During hearing of the petition, the petitioner was represented by Christer Didas, learned counsel. According to PW1, Grace Elias Mketu, her late mother died intestate at NSK Hospital at Arusha on 15th May 2023. The witness produced a death certificate which was admitted as exhibit PE1.

Also, PW1 said the deceased survived three children including herself, David Edwin Riwa and Rosemary Edwin Riwa. The last two children are under 18 years of age.

Besides that, PW1 said the deceased, at her life acquired and has left landed properties which are the houses located at Olnjavitan, Sinoni Ward on Plot No. 50 in Arusha city and a house located in Nachingwea, Lindi Region. Other properties include monetary funds in NMB Bank Accounts 40810107810, 42108000401 and Arusha City Staff SACCOS at Arusha City Council.

Apart from that, PW1 stated that the deceased at her life time professed Christianity and diligence search for WILL was made but it could not be found. That the deceased had a place of abode at Arusha.

In addition to that, the witness said after burial services, they convened a clan or family meeting in which she was proposed to administer the deceased estates. The clan meeting minutes were admitted as exhibit PE2. The witness said she will be faithful to administer the deceased estates and distribute the same to the lawful heirs.

The evidence of PW2, one Abdul Hassan Chitanda and PW3, Thomas John Malibiche was more less the same. They said the petitioner was proposed to administer the estates of the late Eгна John Malibiche and



joined hands that she be granted letters of administration. They did not dispute about the deceased properties and the lawful heirs.

From the pleadings and oral evidence of the witnesses, the issue for determination is whether the petition for grant of letters of administration be granted.

It is apparent that the petition for grant of letters of administration is not disputed for no caveat was raised after the issuance of the citation and publication in Mwananchi Newspaper dated 25th November 2023 and the Government Gazette, issue No.49, ISSN 0856-0323 of 8th December 2023.

Also, all three witnesses said the deceased died intestate, survived three lawful heirs including Grace Elias Mketo, David Edwin Riwa and Rosemary Edwin Riwa who are the deceased children. The evidence shows that the deceased had a place of abode at Arusha which is also deponed in the affidavit of the petitioner. Also, the deceased had no marriage.

It is not in dispute that the deceased left behind her landed properties which are houses located at Olnjavitan, Sinoni Ward on Plot No. 50 here in Arusha and the other house at Nachingwea in Lindi Region. The two



Bank Accounts with National Microfinance Bank (NMB) and the money in Arusha City Staff SACCOS.

When the clan/family meeting was convened, it was agreed that the petitioner be granted letters of administration of the deceased estates as per the minutes, exhibit PE2. This is the firstborn child of the deceased who has promised to be faithful in administration of the estates and to ensure that the lawful heirs get their rights. In law, the court can grant letters of administration to any person or more persons if it is satisfied that he/she is trustworthy, entrusted by the heirs, is entitled to the deceased's shares, has interest in the estate, safety of the estates, consanguinity and that the estates will be properly administered.

It is, thus, clear that under section 33 (1)(2) of the Probate and Administration of Estates Act, Cap 352 (R. E 2019), the petitioner is a fit person to be granted letters of administration of the deceased estates.

Eventually, I find and hold that the petition for grant of letters of administration has merits and it is hereby granted and it is ordered as follows:

- (a) The petitioner, Grace Elias Mketo is appointed administratrix of the estates of the late Eгна John Malibiche.
- (b) Letters of administration be granted.



- (c) The administratrix to carry out her administration duty and exhibit statements or accounts of the estates and file inventory within six (6) months from the date of appointment.


F. H. Kiwonde

Judge

11/03/2024

Court: Judgment is delivered in chamber in the presence of Christer Didas, counsel for the petitioner, the petitioner herself and Mohamed (RMA) this 11th March 2024 and the right of appeal is explained


F. H. Kiwonde

Judge

11/03/2024

