

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(TANGA SUB- REGISTRY)

AT TANGA

PROBATE AND ADMINISTRATION CAUSE NO. 07 OF 2023

In the matter of the estate of the Late DEODATUS ZACHARIA MALLY

AND

In the matter of an application for probate by GRACE ZACHARIA MALLY

RULING

14th March, 2024

NDESAMBURO, J.:

The petitioner, Grace Zacharia Mally, has approached this court under the provisions of section 56 of the Probate and Administration of Estates Act, Cap 352 R.E 2002, seeking appointment as an administratrix of the estate of the late Deodatus Zacharia Mally. According to the petition, the late Deodatus Zacharia Mally passed away at Muhimbili Hospital, Ilala District, Dar es Salaam on the 17th of March 2016, and he left no will.

According to the petition, the deceased was a Tanzanian who professed Christianity at the time of his death. He had a permanent

residence in the Korogwe District, within Tanga City. Additionally, he owned properties within the jurisdiction of this court.

On the 15th of December 2023, a citation order was issued for publication in both the official Government gazette and the Mwananchi newspaper. In addition, an order for a citation to Immaculata Aloyce Kilaty, the deceased's wife per Rule 72(2) of the Probate Rules GN Nos. 10 of 1963, 107 of 1963 and 369 of 1963 was issued.

Before this court today, the petitioner's counsel submitted that the petitioner diligently complied with the court's citation order, ensuring its publication in both the official Government gazette dated 23rd February 2024 and the Mwananchi newspaper dated 26th January 2024. Regrettably, attempts to serve the deceased's spouse were unsuccessful, a fact supported by an affidavit affirmed by Salim Jumbe Adamu. Additionally, the petitioner, accompanied by her two sureties, Steven Elias Awiti and Prosper Zacharia Mally, stands before this court to support her. Furthermore, the petitioner's clan members recommended the petitioner files this petition. Moreover, she is willing to diligently administer the late Deodatus Zacharia Mally's

estate. Consequently, the learned counsel implored the court to appoint the petitioner as the administratrix of the estate of the late Deodatus Zacharia Mally.

After a comprehensive review of the records and submission presented by the learned counsel, it is clear that the petitioner has diligently followed legal procedures. The citation was duly issued and published in the official Government gazette on 23rd February 2024 and in the Mwananchi newspaper on 26th January 2024. This court previously ordered the citation to be served to the deceased's wife. However, according to the affidavit affirmed by the court process server, she could not be located. The court is therefore convinced that, with two citations published in both the official Government gazette and the Mwananchi newspaper, adequate notice has been provided to her. Important, since the citation was enacted, no caveats or objections have been lodged with the court, and the 14-days period stipulated by Rule 76 of the Probate Rules for such actions has elapsed.

In light of the above, considering this proceeding as non-contentious, I hereby grant the petition. The petitioner, **Grace**

Zacharia Mally, is duly appointed as the administratrix of the estate of the late Deodatus Zacharia Mally. The administratrix is ordered to present an inventory and submit final accounts of the deceased's estate within six months from the date of this appointment.

It is so ordered.

DATED at **TANGA** this 14th Day of March 2024




H. P. NDESAMBURO
JUDGE