

TANZANIA / JUDGMENT

SPENSIOSA HELADIUS KANJE

COURT
TANZLIIDECIDED
23 August 2024

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THE JUDICIARY OF TANZANIA IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA AT
ARUSHA PROBATE AND ADMINISTRATION CAUSE NO. 000004656 OF 2024 SPENSIOSA
HELADIUS KANJE COMPLAINANT / APPELLANT / APPLICANT / PLAINTIFF
VERSUS HELADIUS GODFREY KANJE RESPONDENT / DEFENDANT

RULING

BADE, J, 23/08/2024 & 13/09/2024 BADE, J. This Ruling results from a petition for letters of administration where the petitioner is applying to be appointed the Administratrix of the estate of the late HELADIUS GODFREY KANJE, now deceased, by the deceased wife SPENSIOSA HELADIUS KANJE. the Petitioner's counsel, Mr. Emmanuel Sood had addressed the court and prayed to be given time to amend the filed documents, and this court allowed the same to be amended and refiled. The BENEFICIARIES of the deceased estate are the children, some of whom are of tender age, and the said wife, with whom they married on October 13, 2018. Their complete list is as below:

1. Spensiosa Heladius Kanje , the wife
2. Hilda Heladius Kanje, daughter
3. Irene Heladius Kanje, daughter
4. Regan Heladius Kanje, son
5. Prince Heladius Kanje, son
Page. 1 The Petitioner is the WIFE of the deceased, the late HELADIUS GODFREY KANJE who died intestate in Istinye University Health Application and Research Centre in Istanbul, Turkey on December 13, 2023. There is attached to the document an affidavit dated February 27, 2024, of the authorized translator, one Rajab Abbas from BAKITA, translating the death certificate of the deceased HELADIUS GODFREY KANJE from Turkish to English. Upon receipt of the Petition for Application of grant of letters of administration, this court had ordered citations and the Petitioner has complied with the same. The citations were published in the Mwananchi Newspaper on March 18, 2024, as well as the Government Gazette on March 22, 2024 ISSN No. 0856-0323, No 12 of 105 which had been tendered and received for proof and court records. The Petitioner led by the counsel testified that so far there has not been received any caveat or objection on the appointment

of the administrator, or any other person that is supposed to be a beneficiary that has not been brought to book. Notably, despite the requirement on the citation being no less than 30 days as per Regulation 76 of GN 10 of 1963 catering for general citation, this particular citation has been on for several months since March 2024, which notice has now lapsed without there being any caveat or objection. Upon being prompted by the Court on the whereabouts of any will of the deceased, Counsel Emmanuel Sood, Advocate responded that the Petitioner had made diligent efforts to find a WILL but found none in existence, including finding out from near relatives/friends. Having studied the Petition filed in this Court on 23 August 2024, this issue before the Court is to determine whether it is satisfied that the requirement of the appointment of the administrator of the deceased estate is met. I have taken time to scrutinize the Petition and its attachments. Foremost, it is accompanied by the administrator's oath, by the petitioner, that she will administer the estate of the deceased HELADIUS GODFREY KANJE with utmost good faith, as well as testified to so do under oath before me in Court. Also, the Petitioner has also filed in Court an amended Administration Bond valued at a sum of TZS 2,000,000,000 say Tanzanian Shillings Two Billion binding FRIGILY KALISTI KANJE issuing a bond valued at the amount which is 125% of the value of the estate to be administered whose value is estimated at Tanzanian Shillings 1,500,000,00, as well as a Certificate of Sureties' financial position by PETER MARK MREMA of P. O Box 10201, Arusha, which confirms that the person that has guaranteed the Petitioner can meet their financial obligations. I have also noticed that there are deeds of the consent of the beneficiaries, which the counsel for the Petitioner had prior to filing the Petition, obtained from the individual beneficiaries, all of which are filed in court accompanying the original petition, which signifies that all of the beneficiaries have consented to the appointment of the Petitioner to be the Administratrix. They have also appeared before the Court and upon the court's prompting, I have ascertained their willingness to have the Petitioner be appointed the Administratrix of their deceased father's estate. I am satisfied with their consent. The Petitioner has also filed an affidavit as to the domicile of the deceased, which attests to the fact that the deceased was a resident of Arusha, as well as stating that he died intestate. Page. 2 This Court noted that the Petition lacked a list of the properties expected to be brought into administration, and thus counsel for the Petitioner prayed and was granted leave to file an amended Petition so it could contain a proper list of the properties. Now the Petition lists the properties that would come to the Petitioner's administration including:

1. A commercial house created in Plot no 236 Block Y located in Engaro Narok area, Arusha whose value is estimated at TZS 250 Million.
2. A commercial house no 03 created in Plot no 614 Block DD located in Sombetini, Arusha whose value is estimated at TZS 50 Million.
3. A commercial land 29863 created in Plot no 1 Block C located in Sombetini, Arusha whose value is estimated at TZS 250 Million.

4. A commercial house no 05 created in Plot no 236 Block Y located in Olkung'u area, Arusha whose value is estimated at TZS 300 Million.
5. Residential Plot No 101 Block C located at Njiro, whose estimated value is TZS120 Million.
6. Residential House created on unsurveyed land located at Rombo, Naiyemi, whose estimated value is TZS 250 Million.
7. Residential Plot on an unsurveyed area in Rombo, Naiyemi Village, whose estimated value is TZS 30 Million.
8. 50% shares in the company Kangaroo Brand Shoe Cream (T) Ltd
9. 70% shares in Ndesoma Industries Company Ltd
10. 2 Motor Vehicles model Toyota Land Cruiser, Reg No T487DHQ valued at TZS 50 Million; and Toyota RAV 4 Reg No T378BXD valued at TZS 10 Million. As the Petitioner prayed that the court appoint her to be an Administratrix of the estate of the late HELADIUS GODFREY KANJE, she stated in court that she understood her duties would be to bring together all the deceased properties and distribute the same to the beneficiaries. She also understood that she is enjoined to administer the properties fairly and that she has been recommended to be the Administratrix by the family meeting. The minutes to this effect have been annexed as part of the documents in the Petition filed in court. As the appointing authority, I first wish to point out that in determining whether to grant letters of administration or not, the court is enjoined to ascertain, if the person petitioning the court for the grant is a person interested in the estate of the deceased person, and two, whether this person is fit to be appointed as such. Further, I would illuminate on the purpose of the document known as letters of administration in legal parlance. This is a legally acquired document granted by the court, with the sole purpose of authorizing an individual, known as the administrator or administratrix as the case may be, to manage the estate of a deceased person who passed away without leaving a valid Will. It is granted in a situation like the one before me, where the deceased died without appointing an executor to manage and distribute the assets left over in their estate after his or her passing. As the administrators obtain the legal authority to act on behalf of the deceased, it cannot be overemphasized that the grant does come with a long Page. 3 list of responsibilities and asset management tasks to navigate. They include:
 1. identifying and securing assets – where the administrator must locate and safeguard all assets belonging to the deceased, including property, bank accounts, investments, shares and personal belongings. It is now their responsibility to ensure these are properly managed. This is where the Administrators are supposed to file a list on inventory of the deceased properties.
 2. settling debts and liabilities - before the administrator can distribute the estate amongst beneficiaries, they must use leftover funds to pay off any outstanding debts or liabilities on the deceased's estate.

3. filing tax returns - like debt, taxes do not die with the deceased. The administrator must file any necessary tax returns and pay outstanding taxes while administering the estate.
4. distributing the estate – where the remaining assets must be distributed among the beneficiaries, according to law not only in fairness, but also responsibly.
5. keeping detailed records - throughout the administration, the administrator must maintain accurate records of all financial transactions, communications, and decisions made. The administrator is legally enjoined to complete this task so that s/he can have a record that would serve as proof that they acted fairly and responsibly.
6. finalizing the affairs of the estate - the administrator must prepare a final account and file it in court for sanctioning the distribution of the assets to the beneficiaries. This is the final aspect of the estate administration, legally signifying that the administrator's responsibilities have concluded. A succinct clarification of the conditions of the grant of letters of administration is put forth in the case of Sekunda Bwambo vs Rose Ramadhani [2004] TLR 439, where these important matters regarding the appointment of an administrator were also clarified particularly the position and duties of an administrator of an estate. I cannot overemphasize the fact that it is purely a position of trust, and certainly not of personal gain. I respectfully quote the guidance from His Lordship Rutakangwa, J. (as he then was) at pp. 443-444 which I quite instructively extracted from the decision of what he described as a classic exposition of qualifications of a fit person for appointment as an administrator as well as the duties and responsibilities of such a person, which he explained thus: "The objective of appointing an administrator of the estate is the need to have a faithful person who will, with reasonable diligence, collect all the properties of the deceased. He will do so with the sole aim of distributing the same to all those who were dependents of the deceased during his lifetime. The administrator, in addition, has the duty of collecting all the debts due to the deceased and paying all the debts and taxes owed by the deceased. If the deceased left children behind, it is the responsibility of the administrator to ensure that they are properly taken care of and well brought up if still young, using the properties left behind by their deceased parent." In the final analysis, this Court doth hereby GRANT the letters of administration to the Petitioner and ORDER as follows: Page. 4
 - a) SPENSIOSA HELADIUS KANJE the Petitioner herein, is hereby appointed as the Administratrix of the estate of the late GODFREY HELADIUS KANJE of P.O. BOX 10201, ARUSHA who died intestate at INSTABUL, TURKEY on December 13, 2023;
 1. Letters of Administration be granted forthwith to the Petitioner;
 2. The Administratrix shall endeavor to collect and bring to book all properties of the deceased, movable and immovable, and file an inventory of the estate of the late HELADIUS GODFREY KANJE before this Court within six months of this order. For purposes of convenience, let the inventory be filed in court on or before March 21, 2025;

3. The Administratrix shall file a final account of the estate within twelve months of the grant of the order, that is on or before August 25, 2025;
4. The Administratrix shall administer the estate faithfully and shall ensure that the lawful debtors of the deceased if any get their dues, and distribute the remainder of the estate to the lawful heirs of the late HELADIUS GODFREY KANJE, ensuring all of them are catered for in the deceased estate; and
5. Costs of the Administration be borne within the estate of HELADIUS GODFREY KANJE, deceased.
6. The administrator shall appear in court without fail on 25th March 2025 to exhibit the inventory accompanied by the beneficiaries. IT IS SO ORDERED. DATED at ARUSHA this 13th of September 2024 Dated at ARUSHA this 13th of September 2024 . A. Z BADE JUDGE OF THE HIGH COURT Page. 5

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