

TANZANIA / JUDGMENT

fadhili tewa said vs amina tewa said and another 2020 tzhc 3333 30 october 2020

COURT
TZHCDECIDED
30 October 2020

Source: media.tanzlii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA (DAR ES SALAAM DISTRICT REGISTRY) AT DAR ES SALAAM PROBATE AND ADMINISTRATION CAUSE NO. 45 OF 2018 IN THE MATTER OF THE ESTATE OF THE LATE TEWA SAID TEWA AND IN THE MATTER FOR APPLICATION FOR LETTERS OF ADMINISTRATION BY FADHILI TEWA SAID PETITION FOR GRANT IN RESPECT OF UNADMINISTERED ASSETS BETWEEN FADHILI TEWA SAID..... PETITIONER VERSUS AMINA TEWA SAID..... 1st CAVEATOR CITY PROPERTIES LIMITED..... 2nd CAVEATOR

RULING

MASABO, J. In this matter the applicant has applied for letters of administrator of an unadministered asset of the late Tewa Said Tewa. The application is contentious, having been contested by Amina Tewa Said as first caveator and City Properties Limited as 2nd Caveator. Individual citation for each of the caveators were duly issued pursuant to Rule 82 (3) of the Probate Rules and both entered appearance by filing affidavit as per Rule 82(4), thus the pleadings at this stage were complete. Today, the matter was scheduled for hearing. Prior to commencement of hearing, the counsel for the applicant referred me to the decision of the 1 JLMasabo Court of Appeal in Monica Nyamakare Jigamba v Mugeta Bwie Bakhome and 2 Others, Civil Application No. 199/01 of 2019 (unreported) in which the procedures applicable in a contentious probate were emphatically articulated. Based on this he argued that, there is a procedural irregularity which needs to be cured before the matter proceeds to hearing. The irregularity is that, the case file ought to have been assigned a new number and the parties ought to have been given time to file necessary pleadings before appearing before judge for hearing. The counsel for the first and second caveators were also in support. Upon consideration of the submissions made by the parties and guided by the authority above cited and the provision of section 52(b) and 59 of the Probate and Administration of Estates Act, Cap 352, and Rule 82 (6) of the Probate Rules, G.N No. 369 of 1963, which states that: "Where a caveator enters an appearance the proceedings shall be numbered as a suit and the Registrar shall appoint a date upon which the suit shall be listed before a Judge in Court for such orders as to pleadings and date of the hearing as the Judge may make," I am of the view that, indeed there is an irregularity. To cure the irregularity, it is ordered

as follows:

- i. The present proceedings shall turn into a suit to which the petitioner Fadhil Tewa Said shall forthwith be the plaintiff whereas the 2 JLMasabo caveators, Amina Tewa Said and City Properties Limited shall be co defendants; ii. The pleadings shall be assigned a civil suit number by the Deputy Registrar who shall thereafter direct the parties to appear before judge for necessary orders as to the special pleadings to be filed; iii. The parties are to appear before the Deputy Registrar on 5th November 2020 for necessary orders iv. There are no orders as to costs. DATED at DAR ES SALAAM this 30th October 2020. J.L. MASABO
JUDGE 3 JLMasabo
-

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://media.tanzlii.org/media/judgment/209540/source_file/fadhili-tewa-said-vs-amina-tewa-said-and-another-2020-tzhc-3333-30-october-2020.pdf

CASE PAGE <https://chat.esheria.ai/case-law/tanzania/LettersofAdministration-tzhc-2020--6a3ea52a3b1caa9129822ab1>

Prepared on 13 October 2026 · Esheria