

TANZANIA / JUDGMENT

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1 January 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA DAR ES SALAAM SUB  
REGISTRY AT DAR ES SALAAM MISC. CIVIL APPLICATION NO. 21597 OF 2024 (Arising from  
Probate and Administration Cause No. 28 of 2014)

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IN THE MATTER OF THE ESTATE OF THE LATE TIJAN MZEE MAHUNGUHUNGU (DECEASED)  
AND IN THE MATTER OF AN APPLICATION FOR REVOCATION OF THE GRANT OF LETTERS OF  
ADMINISTRATION TO TIJAN TIJAN MAHUNGUHUNGU BETWEEN AMANIEL TIJAN  
MAHUNGUHUNGU.....1ST APPLICANT MOSEMOSE TIJAN  
MAHUNGUHUNGU.....2ND APPLICANT MZEE SAMWEL  
TIJAN.....3RD APPLICANT JANETH TIJAN  
MAHUNGUHUNGU.....4TH APPLICANT VERSUS TIJAN TIJAN MAHUNGUHUNGU  
(Administrator of the Estate of the late TIJAN MZEE MAHUNGUHUNGU) .....  
RESPONDENT

## RULING

Date of last order: 21st November 2024 Date of Ruling: 25th November 2024 MTEMBWA, J.: Under sections 49(1)(b) and (e), (2) of the Probate and Administration of the Estate Act, Cap 352, RE 2019 and rule 1 29(1) and (2) of the Probate Rules, GN No 369 of 1963, the Applicants filed this Application seeking for an order of revocation of the letters of Administration in respect of the estate of the late TIJANI MZEE MAHUNGUHUNGU (Deceased) granted by this Court in Probate and Administration Cause No. 28 of 2014 on 4th June 2015 to the Respondent. Having revoked the letters of the administration, this Court be pleased to appoint MZEE SAMWEL TIJAN or any other appropriate or competent person to administer the estate of the late TIJANI TIJAN MAHUNGUHUNGU. The Application is supported by a Joint Affidavit of the Applicants. The Respondent resisted the Application and further raised the following preliminary objections;

1. That in terms of item 21, Part III of the Schedule to the Law of Limitation Act, Cap. 89 R.E 2019, and the ruling of this Honourable Court [Kulita J] dated 31/3/2020 in Misc. Civil Application No. 369 of 2018 between Janeth Mahunguhungu and Tijan Tijani Mahunguhungu, this Application is time barred.

2. That in terms of the ruling of this Honourable Court [Kulita J] dated 31/3/2020 in Misc. Civil Application No. 369 of 2018 this Application is resjudicata and the Honourable Court is functus office.
3. That the Applicants have no locus standi to question anything relating to the estate of the late Tijan Mzee Said 2 Mahunguhungu, for which the respondent was appointed to administer.
4. That in terms of the prayers prayed in the Chamber Summons, this Honourable court has no jurisdiction to revoke letters of administration in Probate and Administration Cause No. 28 Of 2014 which was granted in respect of the estate of the late Tijan Mzee Said Mahunguhungu.
5. The Applicants ' Application is an abuse of the court process. When the matter came up for orders on 8th October 2024, the Applicants were represented by Mr. Simoni Emmanuel, the learned counsel, while Dr. Abdon Rwegasira, the learned counsel, represented the Respondent. By consent, the parties agreed to argue the preliminary objections through written submissions. Having reviewed the records, I am satisfied that parties adhered to the agreed schedule, which I recommend. Prefacing on what transpired before, Dr. Rwegasira submitted that this Court appointed the Respondent to administer the estate of the late Tijan Said Mzee Mahunguhungu vide Probate and Administration Cause No. 28 of 2014. Sometimes in 2016, the 4th Applicant filed Misc. Civil ApplicationNo. 336 of 2016 seeking revocation of the Respondent's appointment on grounds stated therein. The Applicationwas struck out by this Court (Hon. Korosso, J-as she then was) on 3rd October 2016 for being incompetent. In July 2018, again, 3 the 4th Applicant filed Misc. Civil Application No. 369 of 2018 moving this Court for the same reliefs. This time around, the Respondent challenged the Application by raising three points of preliminary objections, including a point touching on the limitation of actions. After a full hearing, this Court (Hon. S.M.Kulita, J) upheld the objections and struck out the Application on 31st March 2020. The learned counsel prefaced further that in May 2021, the 4th Applicant filed Misc. Civil Application No. 255 of 2021 seeking the same reliefs as in the previous two Applications. As expected, the Respondent raised four points of preliminary objections, one of which was res judicata in terms of the ruling of this Court (Hon. Kulita, J) dated 31st March 2020. The objection that this Court is functus officio in view of the same Ruling was expected. In its ruling dated 2nd September 2021, this Court (Hon. De-Mello, J-as she then was) sustained the objection and the Application was struck out. According to Dr. Rwegasira, this Application is as good as the previous ones, but only that the 4th Applicant has hired the support of her children to seek the same relief. Having so prefaced, the learned counsel argued on the preliminary objections. Launching the missiles to argue on the first point of preliminary objection, Dr. Rwegasira challenged the competency of the Application 4 for being time-barred in terms of item 21, part III of the Schedule to the Law of Limitation Act, Cap. 89 R.E 2019 and as per the ruling of this Court (Hon. Kulita, J) dated 31st March 2020 in Miscellaneous Civil Application No. 369 of 2018. He was fortified by the argument that all matters, including Applications,

must be instituted within the prescribed time. He cited item 21, part III of the Schedule to the Law of Limitation (*supra*), which provides that for Applications under the Civil Procedure Code, the Magistrates' Courts Act, or other written law for which no period of limitation is provided or any other written law, the period of limitation is sixty days. He cited further the case of *Tereza Paulo vs. John Petro Nyanda and Another*, Civil Appeal No. 12 of 1999, Court of Appeal of Tanzania at Mwanza (unreported), where it was observed that; Neither the Probate and Administration Ordinance nor the Rules made under it specify the period within which Application must be made for revocation of a grant. It means therefore, that resort must be had to the provisions of the Law of Limitation Act, No. 10 of 1971. According to item 21 of Part III of the First Schedule to the Law of Limitation Act Application for which no period of limitation is provided for in the Act or any other written law must be made within 60 days of the decision intended to be challenged 5 Based on the foregoing, the learned counsel referred this Court to page 5 of its decision in Misc. Civil Application No. 369 of 2018 (Hon. Kulita, J), where, on the same occasion, the Application was struck out for being time-barred. In 2021, when the 4th Applicant filed Misc. Civil Application No. 255 of 2021, this Court (Hon. De' Mello, J as she then was) sustained the objection on time limitation. It was observed that considering the circumstances, the Court cannot come up with a different view on time limitation. For this reason, the Respondent's counsel challenges the competence of this Application in the second preliminary objection that this matter is *res judicata*. In the premises, this Court also is *functus officio* in terms of the ruling of this Court (Hon. Kulita, J) dated 31st March 2020 in Misc. Civil Application No. 369 of 2018. He cited section 9 of the Civil Procedure Code, Cap. 33 R.E 2019, which prohibits a court from entertaining a suit or an issue that has already been heard and decided in a former suit, precisely when in the former suit, parties were litigating under the same capacities, the subject matter was directly and substantially in issue in the subsequent suit, and the matter was finally determined. He also referred this Court to the case of the Registered Trustees of CCM vs. Mohamed Ibrahim Verse & Sons and 6 Another, Civil Appeal No. 16 of 2008, Court of Appeal of Tanzania at Zanzibar. Applying the principles above, the learned counsel observed that in the present Application, the Applicants are seeking for an order of revocation of letters of administration granted by this Court to the Respondent in Probate and Administration Case No. 28 of 2014, just as what was the remedy sought in Miscellaneous Civil Application No. 369 of 2018 decided by Hon. Kulita J and later on in Miscellaneous Civil Application No. 255 of 2021 disposed of by Hon. De-Mello, J (as she then was). In the two earlier matters, the limitation issue was finally and conclusively decided by this Court, confirming that the Application is time barred. JANETH TIJAN MAHUNGUHUNGU, the 4th Applicant in the present Application, was the same Applicant in the former two Applications. This time, she has joined her three children as 1st, 2nd, and 3rd Applicants. In the third point of preliminary objection, the Respondent challenges the Applicants' *locus standi* to question anything relating to the estate of the late TIJAN SAID MZEE MAHUNGUHUNGU, for which the Respondent was appointed to administer. Dr. Rwegasira defined *locus standi* as a common law principle that requires a person bringing a matter to Court to be able to show that his right or interest 7 has been interfered with. He referred this

Court to the case of Ally Ahmed Bauda (Administrator of the Estate of the late Amina Hussein Senyange) vs. Raza Hussein Ladha Damji and Others, Civil Application No. 525/17 of 2016, Court of Appeal of Tanzania. It was added that, in the present Application, the Applicants are moving this Court to revoke the letters of administration regarding the estate of the late TIJAN SAID MAHUNGUHUNGU. However, annexure AA1, which is a copy of the Death Certificate, names the deceased as TIJAN SAID MZEE MAHUNGUHUNGU. He observed that this Court appointed the Respondent to administer the estate of the late TIJAN SAID MZEE MAHUNGUHUNGU, whose death Certificate has been pleaded and attached by the Applicants to their Joint Affidavit. Regarding the fourth point of preliminary objection, Dr. Rwegasira challenges the jurisdiction of this Court to revoke the letters of Administration in Probate and Administration Cause No. 28 of 2014, which was granted in respect of the estate of the late TIJAN MZEE SAID MAHUNGUHUNGU. He added further that the Respondent was appointed to administer the estate of the late TIJAN MZEE SAID MAHUNGUHUNGU and that since the Applicants are moving this Court to revoke the letters granted in respect of the estate of the late TIJAN MZEE MAHUNGUHUNGU, and not TIJAN MZEE SAID 8 MAHUNGUHUNGU, this Court cannot revoke letters of administration granted to the Respondent because there is not such a prayer. On the fifth preliminary objection, the Respondent's counsel challenges the competency of the Application, whose filing is an abuse of the Court process. As to what constitutes an abuse of the court process, the learned counsel cited the Nigerian case of SAROKI V KOTOYE (1999)9 NWLR, cited in the case of STARPECO Limited and Mitted & Others vs. AZANIA Bank Limited and Another, Misc. Commercial Application No. 11 of 2020, High Court of Tanzania at Dar es Salaam, where it was observed that the employment of judicial process is only regarded generally as abuse when a party improperly uses the issue of the judicial process to the irritation and annoyance of his opponent and the efficient and effective administration of justice. This arises when multiple actions are instituted on the same subject matter against the same opponent on the same issue. Based on the foregoing observations, the learned counsel argued that in the present case, the same Application has already been instituted against the same Respondent for the same issue in 2016, 2018, 2021, and now 2024. He implored this Court to consider that it is an abuse of the Court process. 9 In the final analysis, the learned counsel for the Respondent implored this Court to dismiss the Application with costs. In response, Mr. Simon Emmanuel was on duty. In his introductory note, he was not far from conceding that the 4th Applicant previously filed three Applications seeking for orders of revocation of the Respondent, which were struck out on technicalities. However, he was of the opinion that those Applications were filed against the Respondent in his capacity and not as the administrator of the estate of the late Tijan Mzee Mahunguhungu. Having so prefaced, he responded as follows; In response to the first preliminary objection, Mr. Emmanuel conceded to the salutary principle of the law that every Application has to be filed within a prescribed period. However, the position is different when it comes to probate matters. The rationale behind the exception is the need to safeguard the interest of the estate's beneficiaries. In this respect, although full of ambiguities, the learned counsel observed that the cause of action accrues from when the appointed administrator starts

commissioning the estate in the interest of the beneficiaries. He cited the cases of *Mwaka Musa vs. Simon Obeid Simchimba*, Civil Appeal No. 45 of 1994, *Emmanuel Theodore vs. Shangwe 10 Mshana*, PC Probate Appeal No. 14 OF 2022 and *Hezron Mwakingwe vs. Elly Mwakyoma*, Probate Appeal No. 3 of 2020. From what I have gathered from the cited cases by Mr. Emmanuel, objection proceedings in probate matters can be filed at any time, provided that the probate and administration cause has not been closed. The essence is simple: some of the deceased's estate beneficiaries may not have been aware of the filed probate matter for one reason or another. Probate matters are peculiar and thus cannot be subjected to the general time limitation under item 21 para III of the Law of Limitation Act. If the time limitation is to be entertained under such Applications, the beneficiaries may be subjected to unnecessary hardships by seeking the first extension of time. Mr. Emmanuel faulted the failure to attach the cited case of *Thereza Paulo* (supra). In response to the second preliminary objection that the matter is *res judicata* on the time limitation issue, Mr. Emmanuel argued that no Application had been decided on its finality. Instead, the ruling was between the 4th Applicant and the Respondent, whereas other Applicants weren't part of previous Applications. Mr. Emmanuel argued further that in *Miscellaneous Civil Cause No. 369* and *Miscellaneous Civil Cause No. 255* were held to be *res-judicata* in terms of part III item 3 and not part III item 21 of the Schedule to the Law of Limitation Act. Both 11 Rulings were with respect to the time limitation for the 4th Applicant to challenge the ruling of *Misc. Civil Application No 339 of 2016*. The fact that the 1st, 2nd, and 3rd Applicants are the 4th Applicant's children does not make them the same persons under the law. He cited the case of the Registered Trustee of CCM (supra). Regarding the third and fourth preliminary objections, Mr. Emmanuel considered them to be points of fact and not law. He added that both names, TIJAN MZEE MAHUNGUHUNGU, TIJAN SAID MZEE MAHUNGUHUNGU, and TIJAN MZEE MAHUNGUHUNGU, refer to the same person. Failure to insert the name "SAID" to read TIJAN SAID MZEE MAHUNGUHUNGU is not fatal and cannot render this Application incompetent or oust the Jurisdiction of this Court. He implored this Court to invoke the principle of overriding objective under section 3A of the Civil Procedure Code. In response to the fifth preliminary objection, Mr. Emmanuel insisted that the Applicants, being legal heirs of the late TIJAN MZEE MAHUNGUHUNGU, have the legal right to take legal action against the Respondent, who has been acting in contravention of the terms of the grant for almost ten years now. He added that all Applications were filed by the 4th Applicant against the Respondent in his capacity emanating from *Misc. Civil Application No. 339 of 2016*. It was argued further that the Respondent is trying to mislead and use this Court as a shield to camouflage himself against the misuse of the office as administrator. Mr. Emmanuel also observed that should this Court be persuaded and sustain the preliminary objections raised, the correct and proper remedy is to strike out the Application rather than dismissing it. Finally, he implored this Court to dismiss the preliminary objections with costs. In rejoinder, Dr. Rwegasira raised three issues for consideration based on Mr. Emmanuel's assertion in reply to the first preliminary objection. First, he submitted that the capacity of the Respondent in the former Applications and the present one does not matter. What matters is that the issue of time limitation was raised and

determined by this Court in the former two Applications to its finality and thus cannot be reopened in the present Application. Second, the Applicants' interpretations of the ruling of this Court by Hon. Kulita, J are too misleading for the following reasons: in Miscellaneous Civil Application No. 369 of 2018 decided by Hon. Kulita, J, the 4th Respondent was not challenging or pursuing the legal action in respect of the Order of Hon. Korroso, J as the Applicants assert. It was an Application, just like the present one, in which the 4th Applicant was moving the Court to revoke the appointment of the Respondent. In Miscellaneous Civil Application No. 369 of 2018, this Court (Hon. Kulita, J) did not base its decision on 13 Miscellaneous Civil Application No. 336 of 2016, as the Applicants assert. Instead, the Court decided by referring to Probate and Administration Cause No. 28 of 2014, the primary or original matter. Third, the Applicants' argument cannot save the present Application because this Court has no jurisdiction to revise its previous decisions in Misc. Civil Application No. 369 of 2018 and Misc. Civil Application No. 255 of 2021 to come up with a different conclusion on the issue of limitation and the cited cases are distinguished from the facts of this case. The learned counsel also apologized for not attaching the cited case of Tereza Paulo vs. John Petro Nyanda and another (*supra*) to his submissions in chief. Having submitted what the decision entails, he attached it to the rejoinder submissions. Rejoining the second preliminary objection, Dr. Rwegasira observed that section 9 of the CPC, which is the statutory basis of *res-judicata*, is thunderous and precise. It bars subsequent suits between the same or between parties under whom they or any of them claim to litigate under the same title. That means the 1st, 2nd, and 3rd Applicants in this matter do not necessarily ensure the applicability of *res-judicata* and *functus officio* principles. As long as the additional Applicants are the biological children of the 4th Applicant who was a party to the previous Applications, these two principles apply against them. He 14 contended further that, in view of the case of Witness Rhobi Elia vs. Khamis Abdallah Mduma, Land Case No. 300 of 2022, High Court of Tanzania (land Division) at Dar es Salaam, such move is considered to be constructive *res-judicata*. In response to what was submitted regarding the third and fourth preliminary objections, the learned counsel submitted that the well-known principle of pleadings is that parties are bound by their pleadings. The Applicants did not state under oath in their joint Affidavit that the names of TIJAN MZEE MAHUNGUHUNGU and TIJAN MZEE SAID MAHUNGUHUNGU refer to the same person, the deceased. Therefore, what is submitted in this aspect is a mere submission from the bar by the Applicants' counsel, which cannot amend the pleadings. He cited the case of Ally Ahmed Dauda (Administrator of the estate of the late Amina Hussein Senyange) vs. Raza Hussein and Others, Civil Appeal No. 525/17 of 2016, Court of Appeal of Tanzania at Dar es Salaam. Rejoining to the fifth preliminary objection, Dr. Rwegasira argued that section 3 (1) of the Law of Limitation Act (*supra*) directs that when an Application like this is considered to be time barred, the remedy is to dismiss and not to strike it out. He insisted that the available authorities, including the case of Witness Rhobi Elia 15 (*supra*), direct that once the matter is held to be *res-judicata* or that the Court is *functus officio*, the remedy is to dismiss the matter, not to strike it out. In the final analysis, Mr. Rwegasira insisted on his earlier prayer that the Application be dismissed with costs. Having dispassionately considered the rival

arguments by the parties, the question would be whether the preliminary objections raised by the Respondent are meritorious. There is no dispute that this Court in Probate and Administration Cause No. 28 of 2014 appointed the Respondent to administer the estate of the late Tijan Said Mzee Mahunguhungu. In 2016, the 4th Applicant filed Misc. Civil Application No. 336 of 2016 seeking revocation of the Respondent's appointment as an administrator. According to the records, the Application was struck out by this Court on 3rd October 2016 for being incompetent. In 2018, again, the 4th Applicant filed Misc. Civil Application No. 369 of 2018 moving this Court for the same reliefs, which was struck out by Hon. Kulita, J, for being time barred. This is where the notice of preliminary objection is grounded. According to Dr. Rwegasira, this Court took the same stance when determining Misc. Civil Application No. 255 of 2021 that the 4th Applicant filed. Mr. Emmanuel did not find the preliminary objections filed worth purchasing. In order to determine the matter properly, I find it opt to determine whether this Court is functus officio to Misc. Civil Application No. 336 of 2016, Misc. Civil Application No. 369 of 2018 and Misc. Civil Application No. 255 of 2021. In Misc. Civil Application No. 369 of 2018, this Court observed at pages 4 and 5 as follows, thus; Starting with the 3rd ground that the Application is time bared; the respondent's counsel, Mr. Rwegasira submitted that the respondent was appointed by the court as an administrator of the estate of the deceased on the 4th June, 2015. The applicant filed the Application for revocation of the letters of administration issued to the respondent vide Miscellaneous Civil Application No. 336 of 2016 which was struck out by this court. It is the finding of this court that the said matter was struck out for being incompetent, the applicant did not bring any Application challenging the said struck out order but rather filed this Application seeking for the same remedy. If at all this Application is subject to the orders of the aforementioned Misc. Civil Application No. 336 of 2016 or even the Probate and Administration Cause No. 28 of 2014 it is definitely out of time as per the Law of Limitation Act, under part III, item 3 of the schedule to the Act. In fact the date of delivery of the original case, Probate and Administration Cause No. 28 of 2014 is the proper one to be referred in computation of time limit as to whether the Application at hand is time bared or not. The limitation period cannot run against the date that Application had been decided but from the date that the original suit, Probate and Administration Cause No. 28 of 2014 had been determined. It is from that case the said Application no. 336 of 2016 arose. I therefore concur with the applicant's 17 counsel Mr. Atinanuswe that this is Application is incompetent before this court for being time bared. (sic) (Emphasis mine) The above-quoted passage needs no interpolations. Having given it thoughtful attention and referring to Misc. Civil Application No. 336 of 2016, this Court concurred with the Applicant's counsel (sic) that Misc. Civil Application No. 369 of 2018 was time barred and thus incompetent. The 4th Respondent did not end there. In 2021, she filed Misc. Civil Application No. 255 of 2021, where an objection relating to res-judicate and funtus officio to Misc. Civil Application No. 336 of 2016 was taken by the Respondent. In its Ruling dated 2nd September 2021, this Court observed at pages 6 and 7 as follows; From all the objections raised, I find it appropriate to establish whether or not the matters is Res Judicata and hence rendering the Court Functus Officio to be able to dispose or else the Application, in interest

of time. On record it is true and, not contested by the Applicant that, Hon. Kulita J; had, Struck Out Misc. Civil Application No. 396 of 2018 for reasons being Time Barred and lack of Locus Standi. At hand the Applicant has repeated the same by filing this Application without due regard to what it takes, rather the remedies available in such situation. I am in one with the Respondent that, for being out of time the Applicant ought to file an Application for filing the Application Out of Time but with good and, sufficient reasons for the delay. The Court and, if satisfied, shall exercise its discretion to grant or otherwise. (sic) 18 In the end, the Court had this to say at page 10 of the typed script of the Ruling thus; Much this ground enough to upheld the objection raised, but of importance is what I have already expound above that the matter is truly Res Judicata unless cured as observed above. This Court is Functus Officio and can not open its hands, for a similar Application that, has already been dealt with, though on preliminaries. (Emphasis mine) From what I have endeavored herein above, the Respondent raised an objection relating to the time limitation on the Application seeking to revoke the Respondent's appointment in Misc. Civil Application No. 369 of 2018, and this Court sustained it. The Court also referred to its earlier decision in Misc. Civil Application No. 336 of 2026. When Misc. Civil Application No. 255 of 2021 was filed by the same Applicant (the 4th Applicant), an objection was taken by the Respondent insisting that the matter is res judicata and that the Court is functus officio pegging his argument on the Ruling of this Court in Misc. Civil Application No. 369 of 2018. Examining the three rulings of this Court, one may resolve that the Respondent raised a preliminary objection relating to time limitation, which the Court sustained. It must be noted that the 4th Applicant 19 brought those Applications seeking to revoke the appointment of the Respondent as an administrator of the estate of the late Tijan Said Mzee Mahunguhungu. The records are silent as to whether the 4th Applicant ever challenged any of the rulings of this Court. It follows, therefore, that it has remained on records that she was barred from filing Applications of the exact nature unless the anomaly related to time limitation is rectified in accordance with the law. As said before, the Applicants filed this Application seeking for an order of revocation of the letters of Administration in respect of the estate of the late TIJANI MZEE MAHUNGUHUNGU (Deceased) granted by this Court in Probate and Administration Cause No. 28 of 2014 on 4th June 2015 to the Respondent. Having revoked the letters, this Court be pleased to appoint MZEE SAMWEL TIJANI or any other appropriate or competent person to administer it. Having been served, five preliminary objections were taken by the Respondent, among others, that in terms of the ruling of this Court in Misc. Civil Application No. 369 of 2018, this Application is res judicata, and this Court is functus officio. Indeed, Functus officio is a Latin maxim that means the jurisdiction of the designated authority comes to an end once he or she has performed his or her functions for which he or she was appointed. 20 In Bibi Kisoko Medard vs. Minister for Lands Housing and Urban Developments and Another (1983) TLR 250, the Court observed that once a decision has been reached and made known to the parties, the adjudicating tribunal becomes functus officio. Having decided on the issue, the Court properly constituted has no status in the matter. In Kamundu vs. Republic (1973) EA 540, the E.A. Court of Appeal noted that: - A court becomes functus officio when it disposes of a case by a verdict of a guilty or passing

sentence or making some orders finally disposing of the case. In Misc. Civil Application No. 336 of 2016, Misc. Civil Application No. 369 of 2018 and Misc. Civil Application No. 255 of 2021, this Court made a point that an Application to revoke the appointment of the Respondent as an administrator of the estate of the late Tijan Said Mzee Mahunguhungu by the 4th Respondent is time barred unless time is extended to that effect. This stance binds whoever comes to this Court seeking an exact order. This Court, therefore, cannot hold otherwise even if the parties are not the same. By this observation, it does not mean that I agree with the holdings of the said Rulings. To that end, I agree with Dr. Rwegasira that this Court is functus officio to Misc. Civil Application No. 336 of 2016, Misc. Civil Application 21 No. 369 of 2018 and Misc. Civil Application No. 255 of 2021. I will remain silent on the substance, legality, or lawfulness of the said Rulings because I am not sitting as an appellate Court. The Applicants are at liberty to initiate revisional proceedings to challenge the legality of the Misc. Civil Application No. 336 of 2016 and Misc. Civil Application No. 369 of 2018 if interested. The right to appeal is also open to the 4th Applicant if she is still interested in demonstrating her right. Having resolved this, I see no reason to determine other points of the preliminary objections. That said, the second preliminary objection is partly sustained. This Application is therefore struck out. Considering the circumstances, there will be no order as to costs. I order accordingly. Right of appeal explained. DATED at DAR ES SALAAM this 25th November 2024. H.S. MTEMBWA JUDGE 22

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Prepared on 14 October 2026 · Esheria