

TANZANIA / JUDGMENT

final Desmond Francis Bennet Tanzilii

COURT
TANZLIIDECIDED
9 October 2023

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

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA MOSHI SUB REGISTRY AT MOSHI MISCELENEOUS CIVIL APPLICATION NO. 1939 OF 2025 (Arising from Probate and Administration Cause No. 8 of 2023) IN THE MATTER OF ESTATE OF THE LATE FIONNUALA VAN RYSWYCK AND IN THE MATTER OF AN APPLICATION FOR EXTENSION OF TIME TO FILE INVENTORY AND ACCOUNTS BY DESMOND FRANCIS BRICE BENNET

RULING

9th April, 2025. A.P.KILIMI, J.: Mr. Desmond Francis Brice Bennet the applicant herein on 09th day of October, 2023 was appointed by this court and given letters to administer the estate of the late Fionnuala Van Ryswyck pursuant to section 33 (1) and (4) of the Probate and Administration of the Estate Act, Cap. 352 R.E.

2019. Subsequently, he was ordered to collect the deceased estate and distribute to the heirs according to the will filed in this court and thereafter to file inventory of the estate and accounts within six months. 1 Having failed to execute the above order within the given time, the applicant is now in this court praying for the following orders;

1. That this Court be pleased to enlarge/ extend time to the petitioner so that he can execute the will and exhibit the inventory and file the accounts
2. That this Court be pleased to grant any relief(s) that deem fit and just to grant. This application has been brought under Rule 109 of the Probate Rules by way of Chamber summons supported by the applicant affidavit. In his affidavit the applicant has averred that he has failed to file the inventory and accounts of the deceased estate due to the reasons that some of the deceased estates are located in different jurisdictions thus needing him to complete some of the formalities such as the proof that he was actually appointed by this honorable court to administer the deceased estate. The applicant has further stated that it has come into his knowledge that the late Fionnuala Van Ryswyck had moneys in two banks in the United Kingdom but he was unable to access the said banks to know the exact amount. Thus, all those reasons have hindered him in ascertaining the accounts and inventory within time hence the instant application. 2 At the hearing of this application which was non contentious, Mr. Emanuel Anthony learned counsel appeared for the applicant. Submitting in support of the application at hand, Mr. Anthony prayed to adopt the

applicant affidavit and submitted that this court has discretionary powers to grant the applicant prayers. The learned counsel was of the view that although the application at hand was brought out of the requirement of the law as the law required the applicant to file the inventory and accounts within six months and within a year, the counsel submitted that for the interest of justice the applicant was to be extended time due to the nature and circumstances of the deceased estates. The learned counsel invited me to be persuaded by the decision of this Court in the Matter of the Estate of the late LIVIA LE POER TRECH and IN the matter of an application by Mr. GLADWASHITON MARIKI ns MRS. MARY MAEDA legal Administrator of the estate, for extension of time within which to file inventory and accounts in respect of the estate of the late LIVIA LE POER TRENCH (Mic. Civil Application No 91 of 2023) [2023] TZHC 23062 (TANZLII). He then commented that the above decision had the same circumstances with the application at hand where this court extended time to the applicant. 3 Mr. Anthony further submitted that in the applicant's affidavit at paragraphs 4,6 and 8 the applicant did adduce reasons as to why he failed to close a probate case within time. He concluded that for the interest of justice this application has to be granted since the application itself is non- contentious. The learned counsel finally prayed this court to be guided by section 3A (1) and 3B (1) of the Civil Procedure Code Cap 33 R.E 2019 in avoiding technicalities and focus on enhancing substantive justice. Having considered the applicant's affidavit and his counsel submissions, the issue for determination is whether the applicant has adduced sufficient reasons for this court to extend time to file inventory and accounts of the deceased estate. Upon perusing the records and scrutinizing the applicant affidavit, the same as alluded above reveals that this court on 9th October 2023 did appoint the applicant herein to administer the deceased estates via Probate and Administration Cause No. 8 of 2023. As correctly submitted by the learned counsel Mr. Anthony, after appointment of the administrator the law provides for the time limit within which the appointed administrator has to account and file inventory within six months to the appointing court. 4 The requirement of the above procedure is provided by the law, however if one fail to comply with, the same law provides for remedy if he furnishes sufficient cause of none compliance of the order of the court. For reference purpose I find apposite to reproduce the said law which is section 107(1)(2) of the Probate and Administration of Estate Act Cap 352.

- (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the court which granted the probate or letters may from time to time appoint or require, exhibit in that court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and in the manner in which they have been applied or disposed of.

- (2) If the administration is not completed within one year from the grant of probate or letters of administration, the executor or administrator shall at intervals of 5 not more than six months, or within such further time as the court which granted the probate or letters of administration may from time to time appoint or require, and on the completion of the administration, exhibit in the like manner an account showing the assets which have come into his hands and the manner in which they have been applied or disposed of since the last account was exhibited. The main reason adduced by the applicant in his affidavit is that due to the fact that some of the deceased estates are located and situated in different jurisdiction and that there are some formalities to be complied with before one can access the said estates, two the applicant has also stated that he failed to complete his work as administrator due to the reasons that in other jurisdiction they do not believe that he was actually appointed to administer the deceased estate and third he has discovered that the deceased had monies in two banks at the United Kingdom, thus all these factors has hindered him in fulfilling the requirement of the law above in time. 6 I have considered the above reasons and the submission made by his counsel, although it is undisputed fact that the applicant is out of time to file inventory and accounts as per the requirement of the law. In my considered view the above reasons stated shows that it is not the applicant's fault in failing to file inventory within time, but it is the circumstances stated above that delayed him. Thus, I am settled the same suffice to be sufficient cause for this court to grant this application. In the premises, since this court has powers to extend the time as the law depicted above, for the interest of justice and with the circumstances of the application at hand, I hereby allow and grant to the applicant extension of time to execute his duties for the period of three months from this day. The applicant is ordered to file the accounts and inventory of the deceased estates located here in Tanzania within such period extended above. For any deceased estates located outside Tanzania jurisdiction, the applicant should enforce probate laws of those countries in respect to Resealing or legal recognition of a foreign grant of Probate or otherwise the said local laws direct. 7 It is so ordered. DATED at MOSHI this 09th day of April, 2025. X JUDGE Signed by: A. P. KILIMI Court: -Ruling delivered today on 9th day of April, 2025 in the presence of Mr. Emmanuel Anthony learned advocate for the Applicant. Sgd: A. P. KILIMI JUDGE 9/04/2025 8

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.tanzlilii.org/media/judgment/350649/source_file/b233e4e975ca94c8/final_Desmond_Francis_Bennet-Tanzilii.pdf

CASE PAGE <https://chat.esheria.ai/case-law/tanzania/desmond-francis-brice-bennet-Extensionoftime-tanzlilii-2023--6a3ea5243b1caa912981a75e>

Prepared on 14 October 2026 · Esheria