

TANZANIA / JUDGMENT

PROBATE AND ADMINISTRATION CAUSE NO

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA ARUSHA SUB REGISTRY AT ARUSHA PROBATE AND ADMINISTRATION CAUSE NO. 14 OF 2024 IN THE MATTER OF THE ESTATE OF THE LATE EVANCE SIMON IZOBA (DECEASED) AND IN THE MATTER OF THE APPLICATION FOR GRANT OF LETTERS OF ADMINISTRATION BY HELENA AUGUSTINE IZOBA PETITIONER

RULING

05/07/2024 & 01/08/2024 BADE, J. This Ruling is resulting from a petition for letters of administration where the petitioner is applying to be appointed the administratrix of the estate of EVANCE SIMON IZOBA, now deceased by the deceased wife, HELENA AUGUSTINE IZOBA. This matter was initially scheduled to have the Ruling delivered by 05 July 2024, but upon perusal of documents on record to satisfy myself on the 1 Page 1 of 12 adequacy of the accompanying documentation, I found the administration bond, as well as the consent deed, are wanting in substance. As the Petitioner's counsel had addressed the court and prayed to be given time to amend the documents, this court allowed the same to be amended and refiled. The BENEFICIARIES of the deceased estate are all adult children and the said wife. Their complete list is as below:

1. Edwin Evance Izoba (a son of the deceased and the petitioner)
2. Evelyne Evance Izoba (a daughter of the deceased and the petitioner)
3. Elvira Evance Izoba (a daughter of the deceased and the petitioner)
4. Egidia Evance Izoba (a daughter of the deceased and the petitioner)
5. Emirita Evance Izoba (a daughter of the deceased and the petitioner)
6. Edgar Evance Izoba (a son of the deceased and the petitioner)
7. Helen Augustine Izoba the wife of the deceased and the petitioner herein) ge 2 of 12 The Petitioner is the WIFE of the deceased, the late Evance Simon Izoba with whom they married in 1972. So all of whom are adult beneficiaries. This court had ordered citations and the Petitioner has complied with the same. The citations were published in the Habari Leo

Newspaper on October 30, 2023, as well as the Government Gazette on April 12, 2024, ISSN No. 0856-0323, No 15 of 105 which had been tendered and received for proof and court records. The Petitioner 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 the book. Notably, despite the requirement on the citation being no less than 14 days as per Regulation 76 of GN 10 of 1963 catering for general citation, this particular citation has been on for several months which have 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 Fatma Amir, 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. /Page 3 of 12 Having studied the Petition filed in this Court on July 12th, 2023, this Court is satisfied that the requirement of the appointment of the administrator of the deceased estate is met, to wit whether the petitioner has interest in the properties of the deceased, and if s/he is a fit person to undertake the duties of the administrator. The Petition is accompanied with the administrator's oath, by the petitioner that she will administer the estate of the deceased EVANCE SIMON IZOBA, with utmost good faith, as well as testified to so do under oath before me in Court. As alluded heretofore, the Petitioner has also filed in Court an amended Administration Bond valued at a sum of TZS 1,000,000,000 say Tanzanian Shillings One Billion binding VEDASTO SIMON IZOBA 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 600,000,00 as well as a Certificate of Sureties financial position which confirms that the person that has guaranteed the Petitioner can meet their financial obligations. There is also an amended Joint Consent of the issues of the deceased who are also the beneficiaries, who are all consenting to the appointment of the Petitioner to be the Administratrix. They have also appeared before the Court on this court prompting, and I have ascertained /Sage 4 of 12 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 Elerai, here in Arusha, stating that he has died intestate. This Court notes through the testimony of the Petitioner as led by the Counsel, the properties that would come to the Petitioner's administration include:

- i) 5 houses created in one plot and located in Elerai, Arusha. The properties are not titled and the processing of the title deeds for the same was underway before the deceased's passing. The properties are bounded by East Liana Assey; West - Mwajuma Frank; North - Kilika Road; South - NSSF Building. The value of these 5 houses comprised in one parcel of land is estimated at TZS 200,000,000. ii) Two properties located in Mateves area, Arusha one measuring an acre, and the 2nd one which is not yet titled, and which are bound by Nassor and Reginald on the West, an unnamed Road on the East, Page 5 of 12 one Mitimungi and one Saidi on the North, and an unnamed Road in the South. The estimated value for these properties is TZS 100,000,000. iii) A Farm measuring 2.5 acres located in Kamachumu,

Bukoba in Kagera Region with houses created in it whose estimated value is TZS 100,000,000. iv) Unspecified amounts of money deposited in bank accounts held in CRDB and NBC Banks. The amounts of money in each of these two accounts are unknown. As the Petitioner prayed that the court appoint her to be an Administratrix of the estate of the late Evance Simon Izoba, 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 since 2022. The minutes to this effect have been annexed as part of the documents in the Petition filed in court. On my part, 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 [Page 6 of 12 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. In any case, a letter of administration is a legally issued 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 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 administrator obtains the legal authority to act on behalf of the deceased, it cannot be overemphasized that the grant does come with a long list of responsibilities and asset management tasks to navigate. They include:

- i) identifying and securing assets - where the administrator must locate and safeguard all assets belonging to the deceased, including property, bank accounts, investments, and personal belongings. It is now their responsibility to ensure these are properly managed. Page 7 of 12 ii) 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. iii) 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. iv) distributing the estate - where the remaining assets must be distributed among the beneficiaries, according to the law in the state, in fairness and responsibly.
- v) 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. vi) 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 Page 8 of 12 aspect of the estate administration, legally signifying that the administrator's responsibilities have concluded. A further 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. 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 / Page 9 of 12 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:

- a) HELEN AUGUSTINE IZOBA the Petitioner herein, is hereby appointed as the Administratrix of the estate of the late EVANCE SIMON IZOBA of P.O. Box 13550, ELERAI, Arusha who died intestate at EMILIO MZENA Memorial Hospital in DAR ES SALAAM, TANZANIA on 20 AUGUST, 2021;
- b) Letters of Administration be granted forthwith to the Petitioner;
- c) 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 EVANCE SIMON IZOBA, before this Court within six months of this order. For purposes of convenience, let the inventory be filed in court on or before February 21, 2025; Page 10 of 12
- d) 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;
- e) 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 EVANCE SIMON IZOBA, ensuring all of them are catered for in the deceased estate; and
- f) Costs of the Administration be borne within the estate of EVANCE SIMON IZOBA, deceased.
- g) The administrator shall appear in court without fail on 25th February 2025 to exhibit the inventory accompanied by the beneficiaries. IT IS SO ORDERED. DATED at ARUSHA this 01st of AUGUST 2024 A. Z. BADE JUDGE 01/08/2024 ■age 11 of 12 chambers on the 01ST day of AUGUST 2024 A. Z. BADE JUDGE 01/08/2024 page 12 of 12

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