

TANZANIA / JUDGMENT

halfan rashid swai vs amina halfan kisombe 2020 tzhc 1332 26 june 2020

COURT
TZHCDECIDED
26 June 2020

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IN THE HIGH COURT OF TANZANIA (DAR ES SALAAM DISTRICT REGISTRY) AT DAR ES SALAAM PROBATE AND ADMINISTRATION CAUSE NO. 25 OF 2020 (Made under section 56 of the Probate and Administration of Estates Act, Cap. 352 R.E 2019 and Rule 39 of the Probate Rules, 1963) In the matter of the Estate of the late HALFAN RASHID SWAI (Deceased). AND In the matter of Application for Letters of Administration of Estate by AMINA HALFAN KISOMBE

RULING

23thJune & 26th June, 2020. E. E. KAKOLAKI J This is an application for grant of letters of Administration to Amina Halfan Kisombe as administratrix of the estates of the late Halfan Rashid Swai who died intestate at Manipal Hospital, Bangalore - India on the 20th day of August, 2019. It is preferred under S. 56 of the Probate and Administration of Estates Act,[Cap. 352 R.E 2019] and rule 39 of the Probate Rules, 1963, supported by annexures. The annexures are death certificate of the late Halfan Rashid Swai annexure AMI and Family meeting minutes as annexure AM2. Also accompanying the petition is the Affidavit as to domicile of the deceased by the petitioner under Rule 64, Administrator's Oath by the petitioner under section 66 and rule 65, Administrator's bond with sureties declared by Abubakar Aaron Uronu and Fatuma Amiri Swai, certificate as to surety's financial position under section 69 certified by one Shakila Selemani and Consent under rule 71 duly executed by Faraja Kisombe, young brother of the late Halfan Rashid Swai and the list of assets under section 56, all made under the Probate and Administration of Estates Act,[Cap. 352 R.E 2019] and Probate Rules, 1963. It is important to mention that the deceased who died intestate survived with a widow one Ms. Sophia S. Mawenya, five children namely Amina Halfan Kisombe , Jasmine Halfan Swai, Shani Halfan Swai, Shamsa Halfan Swai and Amina Halfan Nyange. There is also his mother one Amina Rashid. He also left some properties forming part of the estates which the petitioner is seeking to administer. In summary the known and disclosed estates as per list of assets are 400 shares in Shajar School Association Ltd, Unknown shares in CRDB Bank, Tanzania Oxygen Ltd, SMW Management Consultant (Audit) Firm and Twiga Cement Co. Ltd. Others are cash in four accounts BOA Bank A/C No. 01043320000 Current Account, No. 01043320013 Saving Account, No. 01568580006 Visa Account Current in use and No. 0143320025 former visa account, two accounts in AZANIA Bank A/C No. 0050100001048 USD account Tegeta Bracnch and No. 0050100001059 Tegeta Branch, plot measuring 6.5 acres at

Mapinga Kwa Kibosha, Plot No. 429 and No. 431 Block F one storey buliding with two apartments at Njiro Arusha, one house No. KAW/CGN/04 in block No. 45 at Changanyikeni in area Dar es salaam, one house in Plot No. 563 at Changanyikeni area in Dar es salaam, Two flats 2 with eighteen (18) apartments in Plot No. 562 at Changanyikeni area in Dar es salaam, three houses with thirteen (13) apartments in Plot No. 561 at Changanyikeni area in Dar es salaam, one building with nine (9) apartments in Plot No. 560 at Changanyikeni area in Dar es salaam and one Motor vehicle Toyota V8 Reg. No. T 309 DFF When the matter was called for hearing on 23/06/2020 the petitioner was present in person and represented by Mr. Adam Mwambene learned advocate. Arguing the petition Mr. Mwambene stated that the petitioner who is the daughter of the deceased in seeking to administer the estates of the deceased some of which are known and listed in the list of assets accompanied to the petition and also to manage the affairs of the deceased heirs. That the petitioner complied with the court's order by making citation in accordance with the law in Mwananchi newspaper of 10/04/2020, the Dairy newspaper of 25/04/2020 and the Government Gazette of 05/06/2020 ISSN 0856-0323. And that fourteen (14) days have passed since the citation was made and there is no any caveat entered to challenge appointment of the petitioner as administratrix of the estates of the late Halfan Rashid Swai. He therefore prayed for grant of the petitioner's prayer. I have paid regard to the submission by the learned counsel for the petitioner. The petitioner is the deceased daughter as evidenced by the petition. It is also evident that the deceased survived with one widow and five children and other beneficiaries some of which would need continued services which were rendered to them by the deceased such as Amina Rashid (deceased mother). Further to that the petitioner has assured the court that she was proposed to petition for letters of administration of estates through a family meeting convened on the 01/09/2019 and that no any proceedings for grant of letters of administration or otherwise for administration of estate of the said deceased have been commenced before any court or authority whether inside Tanzania or outside it. The petitioner also through administrator's oath has sworn and assured this court to faithfully administer the estate of the deceased, pay debts, distribute the residue in accordance with the law and exhibit full and true inventory of the said property and credits in this court within six months from the date of grant or at further time as this Court may from time to time appoint and render a true account of her administration within one year. To its further satisfaction the court also on the 25/06/2020 called the petitioner and one Farijara Kisombe, young brother of the deceased who as per the document accompanying the petiton consented to the petitioner to apply and have her appointed as administratrix of the estates of the late Halfan Rashid Swai. They both confirmed that the said family meeting was held on the 01/09/2019 under blessings of Farijala Kisombe and proposed the petitioner to petition for letters of administration of the estates of the late Halfan Rashid Swai. Having considered all that evidence I am satisfied that the petitioner meets the requirement of being appointed as administratrix of the estates. In the circumstances and for the foregoing reasons, I do hereby grant the letters of administration by appointing Amina Halfan Kisombe as administratrix to administer the estates of the late Halfan Rashid Swai. The administratrix of estates will be subjected to immediate control of the court and shall act under its directions as required by the law. It is so ordered. DATED at DAR ES SALAAM this 26th day of June, 2020. E.E. KAKdLAI^I JUDGE 26/06/2020 Delivered at Dar es Salaam this 19th day of June,

2020 in the presence Petitioner, Ms. Pius Moremi learned advocate for the petitioner and Ms. Lulu Masasi, Court < JUDGE 26/ 06/2020 5

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