

TANZANIA / JUDGMENT

PENDENTE LITE RULING tanzlii

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IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA THE SUB-REGISTRY OF MOSHI AT MOSHI MISC. CIVIL APPLICATION NO. 22057 OF 2024 In the Matter of the Estate of the late Joackim Victor Minde AND In the Matter of Application for P endente Lite by LAURA JOACKIM MINDE and VALENTINE JOACKIM MINDE

RULING

18th September, 2024. A.P. KILIMI, J. This ruling emanates from the application filed under certificate of urgency by the applicants herein Laura Joackim Minde and Valentine Joackim Minde. The application was brought under section 38 of the Probate and Administration of Estate Act, Cap 352 and Rule 50 of the Probate Rules and it is supported by the applicants' joint affidavit. In their joint affidavit, the applicants are praying to this court the following order;

1. That this Honorable Court to appoint the applicants herein as pendente lite administrators for the estate of one deceased Joackim Victor Minde, while waiting for the hearing and appointment of the administrators in the petition for probate and administration cause No. 20914 of 2024, pending before this court.
2. Any other order this court deems fit and just to grant 1 In their certificate of urgency, they have stated that the assets of the deceased had no administration since its previously appointed administrators were already revoked thus, there was a danger for the deceased estates to be wasted. At the hearing of this application the applicants were represented by the learned counsels Mr. Allen Godian and Ms. Ikonda Kazi learned advocates. Submitting on the reasons for the applicants to be granted temporary administration pending determination of the main application for appointment of administrators, Ms. Ikonda prayed for the court to adapt the applicants' joint affidavit. She further submitted that there were estates that needs an immediate administration due to the fact that the previously appointed administrators were revoked by the court since 3rd July 2024. Thus the estate was still at large and not administered. She added that the applicants were to be appointed so as to manage the daily activities of the deceased estates as the deceased had hotels, landed properties, and had staffs who needs to be paid salaries and payment of utilities. In their joint affidavit, particularly at paragraphs 5,6,7 and 8, the applicants have stated that due to revocation of the former administrators 2 who were revoked on 3rd July 2024, the deceased estate has remained without administrators. They further averred that since the deceased

left businesses, there were a need for a person to oversee the daily activities of the deceased estate. At paragraph 7 the applicant has listed the deceased estates which were to be managed pending determination of the probate cause. As per paragraph 8 of their affidavit, they have further contended that there was a civil case against the deceased which was at execution stage and were still pending at High Court of Arusha between Barclays Bank Tanzania Limited vs. Kilemakaryo Mountain Lodge Limited and 3 others, which is Execution Application No.10/2023 which also need to be attended. Having considered the application at hand, the applicants' joint affidavit and the submissions by the learned counsel, the issue for determination is whether the application at hand has merits. The main contention by the applicants as per their joint affidavit is that since the previously appointed administrators were already revoked thus, the estate of the deceased has been left with no administration, they were fit candidates to administer the said estates. They have further contended that since most of the estates like hotels had staffs to be paid 3 salaries and close management of the said estate were to be applied so as not to be wasted, the applicants are in this court praying to be appointed as temporary administrator of the deceased estate pending determination of appointment of the future administrator(s). I had revisited the said section 38 of the Probate and Administration of Estate Act Cap 352 R.E 2019 which states that; 'Pending determination of any proceedings touching the validity of the will of the deceased person or for obtaining or revoking any probate or any grant of letters of administration, the court may appoint an administrator of the estate of such deceased person, who shall have all rights and powers of general administration other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the court and shall act under its direction. [Emphasis added] In application at hand as per the applicants affidavit, there re deceased estates which needs special and urgent attention such as the landed properties and hotels, together with employed staffs who may need 4 their salaries, thus as per the reasons advanced that the deceased estate is in danger of being wasted as there is none to administer for now as the administrators are pending to be appointed, in my view the applicants have adduced genuine reasons for an order of pendente lite to be issued by this court. In the circumstances above, and taking regard they have complied with the requirements provided under Rule 50 of the Probate Rules. I allow this application on the following conditions as stated in the above quoted provision.

1. The applicants are allowed to control and manage the deceased estates but not allowed to distribute the said estate to heirs or other persons.
2. In respect to a case of Barclays Bank Tanzania Limited vs. Kilemakaryo Mountain Lodge Limited and 3 others (supra) which is for the execution, if it happens the said execution tend to alienate deceased estate, the applicant should inform this court immediately and seek directives via Deputy Registrar of this court on the way forward before making any decision or anything of the alike concerning the deceased estate. 5

3. The applicants should account and file inventory of the estate of the deceased on the day of hearing main application of granting letters of administration showing their administration during pendent lite period. It is so ordered. DATED at MOSHI this 18th day of September, 2024. X JUDGE Signed by: A. P. KILIMI Court: Ruling delivered today on 18th day of September, 2024 in the presence of the applicants and their respective learned counsels mentioned above. Sgd; A. P. KILIMI JUDGE 18/09/2024 6 7

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