

TANZANIA / JUDGMENT

hassan shivji karim vs saheen hassanali 2021 tzhc 7220 9 august 2021

COURT
TZHCDECIDED
9 August 2021

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IN THE HIGH COURT OF TANZANIA (DAR ES SALAAM DISTRICT REGISTRY) AT DAR ES SALAAM
MISC. CIVIL APPLICATION NO. 355 OF 2021 (Arising from Probate and Administration Cause No.
85 of 2021) IN THE MATTER OF THE ESTATE OF THE LATE HASSAN SHIVJI
KARIM-----DECEASED AND IN THE MATTER OF APPLICATION FOR GRANT OF
LETTERS OF ADMINISTRATION TO COLLECTION AND PRESERVATION OF THE ESTATE BY
SHAHEEN HASSANALI----- APPLICANT Date of Last Order: 06/08/2021 Date of
Ruling: 09/08/2021

RULING

MGONYA. 3. HASSAN SHIVJI KARIM, the Deceased, whom at the time of his death was a businessman and a resident of Dar es Salaam, Tanzania died in Chelsea and Westminster Hospital, Chelsea United Kingdom on 17th day of March, 2021, leaving behind his Last Will and Testament, The deceased is said to have survived by the following heirs:

- (a) Salima Karim - Wife;
- (b) Shaheen Hassanali - Daughter;
- (c) Sabika Chatoo - Daughter; and
- (d) Sukaina Hussein - Daughter. It came to the knowledge of the court through the Applicant's Advocate and from the copy of the Deceased's Last Will and Testament that the Applicant herein is among the Executors duly appointed by the Deceased before his death. It is from the same, the Applicant herein SHAHEEN HASSANALI has filed Probate Cause No. 85 of 2021 pending before this Honorable Court. However, subsequent before hearing and determination of the same, the Petitioner, the Applicant herein has also filed an Application for grant of Letters of Administration for limited Powers for collection and preservation of the Deceased's estate under section 39 of Probate and Administration of Estate Act Cap. 352 [R.E. 2009] and Rule 51 (1) of the Probate and Administration of Estate Rules, GN No. 10 of 1963. Reasons for the Application are well stated in Applicant's Affidavit attached to the Application, specifically on paragraphs 6, 10 and 11 respectively. It is the Applicant's Counsel, Mr. Shuma Waimani Kissenge's concern that, since the appointment of the

Administrator to Probate No. 85 of 2021 is a process which is expected to take a long time, for purpose of preserving the deceased's assets from being wasted, lost or misused in any way, the Applicant is humbly praying to be appointed as an Administrator of the estate of the deceased for the purpose of collecting and preserving the deceased's estate in that respect. It has been prayed that the said powers be granted for the following particular deeds:

- a) Corresponding with banks, debtors and creditors;
- b) Corresponding with all relevant regulatory agencies;
- c) Preservation of all assets including bank accounts, securities and shares; and
- d) Preservation of all funds held in all company bank accounts. Upon emphasis, Mr. Shuma Waimani Kissenge the learned Counsel informed the court that, if granted, the Applicant is not intending to distribute in any manner or temper with the properties of the deceased but rather to collect and preserve the estate pending hearing and issuance of Orders in the Probate and Administration Cause No. 85/2021 before this Honorable Court. I have gone through Affidavit in support of the Application, and oral submission by Mr. Shuma for the Applicant. Further, after going through the Affidavit of Renunciation by MAH MOOD POPTANI the co-executor to the Applicant herein, demonstrating his consent to the Applicant to collect and preserve the deceased's estate in his absence due his old age, I am satisfied that the Applicant deserves to be granted the Application for the purpose of safeguarding the Deceased's estate pending hearing and determination of Probate and Administration Cause No. 85 of 2021 before this Honorable Court. The grant of the Application is duly supported by well stated reasons by the Applicant herein through her sworn affidavit, through the co- executor's Affidavit and from the Advocate's Counsel oral submission before this honorable court. In the event therefore, the Application is hereby granted as prayed. Further, I hereby and accordingly proceed to vest the Applicant with legal powers as Administratrix with the provisional powers to collect and preserve the deceased's assets/estate thereto pending determination of the Probate Cause No. 85 of 2021 before this court, subject to the provisions of Section 39 of the Probate and Administration of Deceased Estate Act Cap. 353 and Rule 51 (1) of the Probate and Administration of Deceased Estate Rules, GN No. 10 of 1963, only to the extent and specific purpose stated above. It is so ordered. L. E. MGONYA JUDGE 09/08/2021 Court: Ruling delivered in chamber in the absence of the Applicant and her Advocate; and before Mr. Richard RMA this 9th day of August, 2021. JUDGE 09/08/2021

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