

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
MOROGORO SUB-REGISTRY
AT MOROGORO**

PROBATE AND ADMINISTRATION CAUSE NO. 2231 OF 2024

**IN THE MATTER OF THE ESTATE OF THE LATE NELLY ADOLPH MUNUO
(THE DECEASED)**

AND

**IN THE MATTER OF THE APPLICATION FOR PROBATE AND LETTERS OF
ADMINISTRATION BY PRIGETH SELESTIN MOKUNDA**

RULING

05/04/2024 & 08/04/2024

KINYAKA, J.:

Prigeth Selestin Mokunda, the petitioner/applicant herein, petitions for letters of Administration in respect of the estate of her husband, the late Nelly Adolph Munuo who died intestate on 22nd October 2023. The application is made under section 56 (1) of the Probate and Administration of Estates Act, Cap. 352 R: E 2002, hereinafter, "the PAE Act" and the attendant provisions of the Probate and Administration of Estate Rules, G.N. No. 10 of 1963, hereinafter, "the Probate Rules". It is supported by an affidavit accompanied with certificates as to surety's financial position, affidavit as to the deceased domicile, consent of the heirs, administrator's oath as well as administrator's bond with sureties.

It is crucial to note that the deceased who was a Tanzanian professing Christianity, is survived with a wife, Prigeth Selestin Mokunda, the petitioner herein with whom he contracted a Christian marriage on 10th November 2012 as evidenced by a certified copy of the marriage certificate submitted before this court, and three children namely; Ian Nelly Adolph Munuo (son) born on 4th May 2021, Moses Nelly Adolph Munuo (son) born on 26th August 2013 and Dorcas Nelly Adolph Munuo (daughter) born on 8th May 2016.

It is gathered from the record that at the time of his death, the late Nelly Adolph Munuo had fixed place of abode at Matongolo Street, in Dumila within Morogoro region thus, within the territorial jurisdiction of this Court.

It is also on the record that the value of the assets likely to go into the hands of the administrator is TZS 200,000,000 (Tanzania Shillings Two Hundred Million) comprising of; a house located at Matongolo A in unsurvey area with dimensions of height of 42 to 37 width, a house located at Matongolo B in unsurvey area with dimensions of height of 34 metres to 15.5 metres width, a house located at Matongolo A in unsurvey area with dimensions of height of 28 metres to 18 metres width, unfinished house located at Matongolo A in unsurvey area with dimensions of height of 14.2 metres to 3 metres width, a house located

at Matongolo A in unsurvey area with dimensions of height of 22 metres to 32 metres width, unfinished house located at Matongolo A in unsurvey area with dimensions of 18.1 metres and 24 metres width, unsurvey plot at Mkwajuni at Dumila within Kilosa District, unsurvey plot located at Matongolo A at Dumila, unfinished house located at Masklepa street in Dumila within Kilosa District in Morogoro, unsurvey plot located at Kitongoji cha shuleni, One farm located at Kitongoji cha shuleni with the dimension of height of 70 metres and 72 metres width, unsurvey plot located at Kitongoji cha shuleni with the dimension of height of 22 metres and 29 metres width, unsurvey plot located at Matongolo A with dimensions of 21 x 20 sqms on height and 12 to 80 sqms width, a house located at Njia Panda B with dimension of 21 x 20 sqms on the height and 12 to 80 sqms width, unsurvey plot located at Kitongoji cha Mkwajuni, with the dimension of 26 x 28 metres on the height and 12 x 13 metres width, unsurvey plot located at Kitongoji cha shuleni, with the dimension of height 37 metres and 21 metres width, unsurvey plot located at Kitongoji cha shuleni with the dimension of height of 35 metres and 35 metres width, unsurvey plot located at Matongolo A with dimension of height of 36 x 50 and 30 x 33 width, unsurvey plot located at Kitongoji cha Mkwajuni with the dimension of height 26 x 28 sqms and 12 x 18 sqms width, unsurvey plot located at Kitongoji cha Mkwajuni with

dimension of height of 49 metres and 47 metres width, unsurvey plot located at Kitongoji cha Mkwajuni with dimension of height of 31 metres and 25 metres width, unsurvey plot located at Kitongoji cha Mkwajuni, with the dimension of height of 31 metres and 25 metres width, a house located at Maili Sita Mnadani (Kimashuku) in Moshi, Kilimanjaro, One bank account at Tanzania Commercial Bank, One bank account at National Microfinance Bank, and M-Pesa line.

On 26th March 2024, Ms. Kay Zumo, learned advocate for the petitioner, informed this Court that she complied with the Court's order dated 8th February 2024, by issuing General Citation and advertisement in Mwananchi newspaper of 22nd February 2024 on page 20. She further informed the Court that no objection or caveat has been raised against the proposed appointment of the petitioner herein as regards to the said administration of estate of the late Nelly Adolph Munuo.

In a bid to convince the court as to the petitioner's fitness, on 5th April 2024, when the petition was called on for hearing Ms. Zumo submitted that being the only wife of the deceased having contracted Christian marriage, the petitioner is the right person to administer the estate of the deceased for the benefit of their children who are all minors and in need of basic needs such as education, accommodation and upbringing which

were all taken care by the petitioner before and after the death of her husband. She added that the presence of the deceased's family members before the Court and their recommendation to the petitioner to administer the estate, confirms that the petitioner is trustworthy, faithful and the right person to undertake administration of the estate of her husband. To substantiate her assertion, the learned counsel submitted to Court original death certificate of Nelly Adolph Munuo, original birth certificates of the three children surviving the deceased, and original minutes of the family meeting of the deceased convened on 30th October 2023 at Nguni village, Matikoni, Hai District in Kilimanjaro region recommending the petitioner to be the administrator of the estate of the deceased. She further prayed to substitute the original documents with certified copies of the same and finally urged to the Court to grant the letters of administration since it has jurisdiction to grant the same.

It worthy to note that in petitions like the present one, the duty of this Court is to satisfy itself if the prerequisites provided for in the cited laws such as the issuance and publication of the citation are complied with before appointing the petitioner and grant her letters of administration.

Owing to the fact that no caveat or objection has been entered since when the legal requirement for citation was duly complied with as stated herein

calling for all interested parties and those with objections to this petition to enter or lodge a caveat before this court, such silence means that the present petition is not contested.

Another prerequisite requirement which is in my view is of utmost importance is for this Court to satisfy itself that the petitioner is trustful, faithful and honest to administer the estate of the deceased. My reasons for stating so are obvious. Among the duties of an administrator is to collect all properties that belonged to the deceased, collect any debt from debtors, settle any debt therein and distribute the estate to the lawful and rightful heirs. In fact, the administrator steps in the shoes of the deceased as if he himself has arisen from grave. Therefore, the duty of administrator is born out of trust, faithfulness, righteousness, equality and respect to heirs and other members of the society. [See **Sekunda Mbwambo v. Rose Ramadhani (2004) TLR 439**]

As alluded by Ms. Zumo, learned Counsel for the petitioner which I also agree, being the only wife and a mother to deceased's children who are minors hence an interested person to the estate, and considering the family members' unanimous recommendation for her appointment to administer the estate of her deceased husband, and the affidavit in lieu



of consent made under Rule 71 of the Probate Rules, I am satisfied that the petitioner is a trusted person.

I have also taken time to pass through the affidavits and annexures accompanying the present application. In compliance with Rule 69 of the Probate Rules, the petitioner has attached certificate as to surety's financial position of Joyce P. Munuo. Furthermore, the petitioner has deposed to be the truly the wife of the deceased who knows the duty of being an administrator. Lastly, the petitioner has confirmed to the Court that the deceased actually died by submitting death certificate bearing reference No. 3400883 A and Entry No. 100000308829 issued on 8th November 2023.

Having complied with all legal requirements, I am convinced that the petitioner attains the threshold from being granted letters of administration. I therefore proceed to grant Letters of Administration to Prigeth Selestin Mokunda to administer the estate of the late Nelly Adolph Munuo.

It is further ordered that the administrator is under statutory duty to perform all her obligations as provided by law. She is obliged to file an inventory in this Court within six months from the date of this order as prescribed under section 107 of the PAE Act. She is also obliged to file

accounts within one year from the date of this order or such further time as the court may from time to time appoint or require, as prescribed under section 107(1) of the PAE Act.

It is so ordered.

DATED at MOROGORO this 08th day of April 2024.



H. A. KINYAKA

JUDGE

08/04/2024



Court:

The ruling is delivered, on this 8th April, 2024 before advocate for
Petitioner.


F.Y. Mbelwa

DEPUTY REGISTRAR

8/04/2024



Court:

Right of appeal explained.

DEPUTY REGISTRAR

SGD: F. Y. Mbelwa

DEPUTY REGISTRAR

8/04/2024

