

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

PROBATE AND ADMINISTRATION CAUSE NO. 29 OF 2019

IN THE MATTER OF THE ESTATE OF THE LATE WILLIAM ELISAMIAH  
MSACKY

AND

IN THE MATTER OF AN APPLICATION FOR LETTERS OF ADMINISTRATION  
BY INVOLATA M. SWAI

**RULING**

**K.N. ROBERT, J.**

The petitioner Involata M. Swai has filed her petition for the letters of appointment as an administratrix of the estate of the late William Elisamiah Msacky, her erstwhile husband who died intestate on the 20<sup>th</sup> of March, 2019 as evidenced by the death certificate (I-1). The petition is made under section 56 of the Probate and Administration of Estates Act, Cap. 352 (R.E.2002), read together with Rule 39 of the Probate Rules, G.N. NO. 369 OF 1963 and it is accompanied with the petitioner's administration bond with

sureties, heirs consent, administratrix's oath, certificate as to surety's financial position, affidavit as to domicile of the deceased and the list of assets.

Having looked at the petition and the accompanying documents, the question for determination is whether the petitioner meets the requisite conditions for appointment as the administratrix of the deceased estate.

It was stated in the petition that the deceased died intestate and due and diligent search has been made for a will but none has been found. That petitioner is the lawful wife of the late William Elisamiah Msacky and that she was duly nominated by the deceased's clan meeting at a meeting held on the 27<sup>th</sup> of March, 2019 to be the administratrix of the deceased's estate as evidenced in the marriage certificate and the minutes of the meeting (I-2).

The petitioner stated in her testimony under oath that during his lifetime the deceased used to be known by different names including William Elisamiah Msaky, Beatus Sabas, and Beatus Sabas Msacky as evidenced in the affidavit sworn by the petitioner (I-3). She stated further that the deceased at the time of his death had a fixed place of abode in Arusha township and died at

KCMC Hospital, Moshi Kilimanjaro. The deceased was a Tanzanian by nationality and professed the Christian religion.

She maintained further that, no proceedings for the grant of probate or letters of administration of the estate of the said deceased had been commenced before any court or authority, whether in Tanzania or elsewhere. The list of assets likely to be under the administration of the intended administratrix include: A house located at Olasiti, Arusha; a house located at Marangu, Moshi; plot of land located at Temeke, Dar es salaam; A car (NOAH); Bank Account at CRDB and NMB; pension; plot of land located at Himo, Moshi, Kilimanjaro; A car (mark 2).


The deceased is survived by his wife (the petitioner) and three issues of the marriage namely: Alvin B. Msacky, Christina B. Msacky and Aidan B. Msacky.

Considering that this petition was duly consented to by the clan members and immediate heirs of the deceased and no objection has been filed against the petitioner, I find this petition to have merit and I grant letters of administration of the estate of the deceased William Elisamiah Msaky to the petitioner INVOLATA M. SWAI under section 3 read together with section 56 of the Probate and Administration of Estates Act, Cap. 352 as well as Rule

39 of the Probate Rules, G.N. No. 369 of 1963. Further to this, I order the petitioner to file with the court an inventory within six (6) months and accounts of estates within twelve (12) months from today pursuant to the provisions of section 107 of Cap. 352.

Order accordingly.



  
K.N. ROBERT  
JUDGE  
29/5/2020