

**IN THE HIGH COURT OF TANZANIA  
(IN THE DISTRICT REGISTRY)  
AT MWANZA  
PROBATE AND ADMINISTRATION CAUSE NO. 5 OF 2021  
IN THE MATTER OF THE ESTATE OF THE LATE YUSUPH MASHAKA  
SUMBYA  
AND  
IN THE MATTER OF APPLICATION FOR LETTERS OF  
ADMINISTRATION OF THE ESTATE  
BY EMMANUEL MALAGO SUMBYA  
PETITION FOR LETTERS OF ADMINISTRATION**

**JUDGMENT**

*Date of last Order: 25.06.2021*

*Date of Judgment: 29.06.2021*

**A.Z MGEYEKWA, J**

The Applicant, Emmanuel Malago Sumbya herein, on the 30<sup>th</sup> April, 2021 filed a Probate and Administration Cause No.5 of 2021 in relation to the Estate of the late Yusuph Mashaka Sumbya who died intestate on 29<sup>th</sup> December, 2020 at Bigando Hospital in Mwanza. The application was

brought under section 56 of the Probate and Administration of Estates Act, Cap.352 [R.E 2002]. The petition is further to the effect that the deceased is survived by a wife, Mary Mabula Sumbya, and six children namely; Happines Sumbya, Emmanuel Sumbya (the petitioner), Julieth Mashaka Sumbya, Nackson Yusuoh Sumbya, Bertha Yusuoh Sumbya, and Laurence Mabula Sumbya. The petitioner Emmanuel Malongo Sumbya has petitioned for letters of administration of the estate of his late father, Yusuph Mashaka Sumbya.

The petitioner was able to make a requisite citation which was issued on 18<sup>th</sup> May, 2021 and, on 25<sup>th</sup> June, 2021 the date fixed for hearing Mr. Mshongi, learned counsel represented the petitioner who was accompanied by her Mother, Mary Mabula Sumbya. The learned counsel sought for the adoption of what is contained in the amended petition. He informed the court that the petition of probate is complied with the law. Until when the matter was called for hearing on 25<sup>th</sup> June, 2021 no caveat has been entered in respect of the petition. The matter was argued *ex parte* whereas the learned counsel for the petition summoned two witnesses, Emmanuel Malongo Sumbya, who testified as **PW1**, and Mary Mabula Sumbya who testified as **PW2**.

The petitioner tendered a total of two (2) documentary Exhibits to wit; **Exhibit P1** a certificate of death of Yusuph Mashaka Sumbya; **Exhibit P2** a Minutes of a clan meeting.

Emmanuel Malango Sumbya (PW1), who testified on oath, stated that the late Yusuph Mashaka Sumbya was his biological father and he was under the care and custody of his father until when he passed away. He went on to testify that his father passed away on 29<sup>th</sup> December, 2020 at Bugando Hospital. To substantiate this fact, PW1 tendered a death certificate which was admitted and marked as **Exhibit P1**. PW1 continued to testify that his late father left behind two houses, Toyota RAV4, a shotgun greener, two bank accounts; Tanzania Postal Bank account and CRDB account, and one plot.

He went on to testify that the deceased is survived by a wife and six children; three boys and three girls and other relatives. PW1 said that a clan meeting was held on 3<sup>rd</sup> January, 2021, and appointed him to be a caretaker of the family and to administer the estate of the late Yusuoah Mashaka Sumbya. To substantiate this fact, PW1 tendered a Minute of the clan meeting which was admitted and marked as **Exhibit P2**.

In his brief testimony, Mary Mabula Sumbya, (PW1) testified that she is the wife of the late Yusuph Mashaka Sumbya, they were married in 1983 and were blessed with seven children; six children are alive and one child passed away. PW1 testified that her husband passed away on 29<sup>th</sup> December, 2020 at Bugando Hospital. She added that his husband was a Roman Catholic believer, she went on to state that after his death on 3<sup>rd</sup> January, 2021, the clan held a meeting and appointed Emmanuel Malango Sumbya as an administrator of the estate of the late Yusuph Mashaka Sumbya. PW2 urged this court to appoint Emmanuel Malango Sumbya to administer the deceased estate.

I have considered the petition and the testimonies of the petitioner and that of the deceased's wife, accordingly, there is no reason as to why letters of administration should not be granted to the petitioner for the reasons that, one, ever since the petition has been filed in this court together with the citation to the public, no caveat has been entered in respect of the petition or whatsoever, secondly, the petitioner is the biological son of the late Yusuph Mashaka Sumbya who is entitled to administer the estate of his late father and the second witness; Mary Mabula Sumbya is the legal wife of the

late Yusuph Mashaka Sumbya who has blessed the appointment of the petitioner to administer the estate of their late Yusuph Mashaka Sumbya.

I have also considered the fact that the estate of the deceased needs to be administered and protected to ensure that they are not left unattended or wasted unjustifiably and also to safeguard the interests of beneficiaries who are intended to benefit from the said properties.

All have been said, I am of the considered view that since the petition has disclosed that deceased left properties it is prudent that such properties fall under the administration of the administrator dully appointed by this court so that the said properties are not misused.

In the upshot, I proceed to grant the letters of administration of the estate of her late Yusuph Mashaka Sumbya and appoint Emmanuel Malago, the deceased's biological son to administer the estate of his late father.

The appointed administrator is now ordered to respect her oath and act in accordance with the law in administering the estate of late **YUSUPH MASHAKA SUMBYA** by collecting the deceased's properties, debts, paying ascertaining debts and distribute the residues of the estate to the heirs/beneficiaries of the deceased. In any event of fraud or misappropriation of

the deceased's estate, the administrator so appointed may be personally held liable for her sureties be it in criminal or civil proceedings or both.

The petitioner is now directed to exhibit an inventory of the deceased's estate in this court within six (6) months from the date of this Order and present final accounts within twelve (12) months from the date of this order. In the event the administration of the estate is not accomplished within six months the administrator has to formally seek an extension of time for administration of the estate to this court.

Order accordingly.

Dated at Mwanza this date 29<sup>th</sup> June, 2021.



  
A.Z.MGEYEKWA  
**JUDGE**  
29.06.2021

Judgment delivered on 29<sup>th</sup> June, 2021 via audio teleconference whereas Mr. Mshongi, learned counsel for the petitioner was remotely present.

  
A.Z.MGEYEKWA  
**JUDGE**  
29.06.2021