

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**FAMILY DIVISION**  
**IN THE MATTER OF THE ESTATE OF THE LATE HENRY KAALA**  
**AND**  
**IN THE MATTER OF AN APPLICATION TO VARY AND OR AMEND LETTERS OF**  
**ADMINISTRATION BY DISCHARGING PROSCOVIA KAALA AS AN**  
**ADMINISTRATOR OF THE ESTATE OF THE LATE HENRY KAALA VIDE**  
**LETTERS ISSUED ON THE 4<sup>TH</sup> DAY OF DECEMBER 2012**  
**MISCELLANEOUS APPLICATION NO 276 OF 2013**  
**ARISING OUT OF ADMINISTRATION CAUSE NO 724 OF 2012**  
**BEFORE LADY JUSTICE PERCY NIGHT TUHAISE**

**RULING**

This is an application by notice of motion brought under rule 27 of the Administration of Estates (Small estates) (Special Provisions) Rules SI 156 – 1, section 33 of Judicature Act cap 13, section 98 of Civil Procedure Act cap 71 and Order 52 rule 2 & 3 of the Civil Procedure Rules SI 71 -1. The application was made *ex parte*. The applicant is seeking orders that:-

1. Letters of Administration granted vide Administration Cause No. 724 of 2012 be varied and/or amended by removing the applicant as administrator.
2. An order of discharge be issued discharging Ms Proscovia Kaala Namuli as administrator of the estate of the late Henry Kaala.
3. That an inventory be filed by the administrators of the estate of the late Henry Kaala.

The application is supported by the affidavit of the applicant which reiterates the grounds of the application. It also reveals that the applicant is not opposed to her brothers, Kiggundu Sam, Tamale James, and Ssenyondwa Richard Kaala proceeding with the administration of the estate. In the alternative, the applicant prays that with the consent of the estate, another member of the family be appointed to replace her as administrator.

The applicant's affidavit refers to the co administrators of the late Henry Kaala's estate as respondents in this matter. This is far from the truth since this application was presented *ex parte* and did not even list the other administrators as parties to this application. It was also not served on the said administrators. The said administrators, for obvious reasons that they were not parties, did not file any affidavit evidence in support of, or in opposition to, this application.

The applicant in her sworn affidavit states that she together with the respondents were granted letters of administration to the estate of the late Henry Kaala on the 4<sup>th</sup> December 2012 vide Administration Cause No. 724 of 2012, and that from the time of the grant, she has been participating in the administration of the estate. This infers she has been co administering the estate with her brothers for about one and a half years since the grant was made.

Section 278 of the Succession Act requires the applicant and her co administrators, within six months from the grant of the letters of administration, to file an inventory in this court containing a full and true estimate of all the property in possession, and all the credits and debts to which the administrators of the estate are entitled. In the same manner, the administrators are required to exhibit an account of the estate showing the assets which have come to their hands and the manner in which they have been applied or disposed of.

This court can safely assume that no such inventory has ever been filed. This is because there is no such inventory on the court record. The assumption is also based on the applicant's prayer that an inventory be filed by the administrators of the estate of the late Henry Kaala. In addition, there is no indication on the court record that the administrators exhibited an account of the estate as required under section 278 of the Succession Act.

In the circumstances, on the adduced evidence, and in light of the requirements of section 278 of the Succession Act, I find it premature for the applicant to request for discharge as administrator before she has filed an inventory of the estate and or exhibited an account of the estate showing how she and her co administrators have been administering the estate for the last one and a half years.

Secondly, in the case of an early discharge, since the estate is jointly administered, this court would require that the position of the other administrators, and the beneficiaries, be known, not only on applicant's desire to be discharged from administering the estate, but also her replacement. This is purely in the interests of justice, and for the protection of the estate and the beneficiaries' interests. It would ensure that the actions and intents of all the administrators regarding the estate are reflected and known. This is more so since the applicant also seeks to be replaced with the consent of the estate.

It would be a disservice to the estate, the beneficiaries and the other administrators who have not been heard, or at least notified, for this court to just discharge the applicant from her obligations as an administrator without her either being cleared by the co administrators and beneficiaries, or on court being satisfied that the applicant has observed her obligations under section 278 of the Succession Act.

This application is dismissed. There is no order as to costs.

**Dated at Kampala this 15<sup>th</sup> day of May 2014.**

Percy Night Tuhaise

**Judge.**