

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

HOLDEN AT MBALE

HCT-04-FC- CS-009-2013

(ARISING FROM ADMIN CAUSE NO. 10- 2011)

- 1. ALLISATI MIYA**
- 2. ASSA NAHIRYA**
- 3. NAMUDIRA ZAINABU**
- 4. ZIYADA MIYA**
- 5. WERE ZIKULA**
- 6. NAKOMA JALIYA**
- 7. FARIDA MIYA**



..... PLAINTIFFS

VERSUS

- 1. HAJJI MUSA HASAHYA**
- 2. ALI MIYA**



..... DEFENDANTS

BEFORE: HON. MR.JUSTICE HENRY I. KAWESA

RULING

This matter originally was filed between the parties **Hajat Hanifa Miya vrs Musa Hasahya** and another (Case HCT-04-FC-007 -2012;) and **Alisati Miya, Assa Nahirya, Namudira Zainabu, Zinda Miya, Were Zikula, Wakoma Jaliya, Jarida Miya vrs Haji Musa Hasahya and Ali Aliya** (Civil Suit 009-2013) arising from High Court Administration Cause No. 10- 2011)

The plaint in Civil Suit No.099/2013 was for revocation of letters of administration granted under Administration-Cause No.10 of 2011 to the Estate of late **Yunusu Miya**.

Meanwhile Family Cause No. 007 of 2012 was brought for citation to bring letters of administration. An order recalling the letters was issued on the 12th July 2013. A judgment in admission of 2nd defendants' paragraphs' 3, 9 and 10 of the Written Statement of Defence was entered in judgement. The matters were then sent for arbitration and now this ruling hereby follows the outcomes of the arbitration done so far. This court hereby consolidates both these suits using its inherent power under section 98 of the CPA, and Order 11R (1) (a) and (b) CPR. The directions given in this ruling will therefore be in reference to both suits in consolidation.

Both suits seek Orders for revocation of the letters of administration granted to **Musa Hasahya** and **Ali Miya** under administration cause, 10 of 2011 to the estate of the late **Haji Yunusu Miya**.

A) This Court having noted the issues raised in the pleadings, the arbitration reports, and testimonies of the different parties, it is clear that the letters of administration that were issued were not used by the administrators to serve the best interest of the estate and the beneficiaries as:

- i) There are wrangles.
- ii) Some beneficiaries are left out.
- iii) The two administrators do not agree with each other.
- iv) There is no inventory filed in the court after 6 months as required by the law.
- v) Some of the property is gone to waste as a result of the wrangles.

The administrators have failed in their duties in accordance with section 234 (1), (d), (e) of the Succession Act. This grant is accordingly revoked. Both **Musa Hasahya** and **Ali Miya** should cease forthwith from dealing with any estates matters of the late **Yunusu Miya**.

B) In view of the revocation above, this court hereby invokes the provisions of section 4(5), (a) of the Administrator General's Act providing that;

“When the peculiar circumstances of the case appear to the court so to require, for reasons recorded in its proceedings, the court may if it thinks fit of its own

motion or otherwise, after having heard the Administrator General grant letters of administration to the Administrator General.”...

Sec 6(2) of the Administrator General Act states “*Upon application, the High Court may grant letters of administration to the Administration general*”.

Counsel Nabende on behalf of Hajat Hanifa Miya applied to this court, to have the grant sealed in favour of the Administrator General.

I do agree with his prayer for the following reasons:

- (i) The parties have failed to agree on the any possible administrators who will serve the interest of all beneficiaries.
- (ii) Peculiar circumstances as recorded in the various arbitration reports warrant so.

For the reasons above, it is hereby ordered in accordance with sections 4, 5, and 6, of the Administrator General’s Act, that the letters of administration to the estate of the late Yunusu Miya deceased of Budira, Kachonga sub- county Butaleja district, be and are hereby granted to the Administrator General.

Each party to bear their own costs of this cause. I so Order.

Henry I Kawesa

JUDGE

30.07.2015

