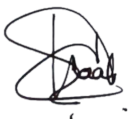




2. The 1<sup>st</sup> Respondent is frail and cannot run or administer the Estate Property.
  3. Since the grant of Letters of Administration, there is no inventory of the distribution of the estate.
  4. The family has appointed the applicant to be the administrator to the estate of the late Aligizanda Basajankanga.
  5. It is in the interest of justice that this application is allowed.
- 1.2 There is no proof of service to the 1<sup>st</sup> Respondent however, on record there is a signed consent judgement entered into between the applicant and the 1<sup>st</sup> Respondent on 11<sup>th</sup> March, 2024.
  - 1.3 Mr. Mugendada Nicholas holding brief for Counsel Khauka Denis appeared in court and represented both parties.
  - 1.4 On 12<sup>th</sup> March, 2024 when this matter came up for hearing the advocate appeared without the parties and mentioned that his clients were within the court premises, that the 1<sup>st</sup> Respondent being frail it would take some good amount of time to have him in court.
  - 1.5 Accordingly, Court heard from the counsel who presented the application with the written submissions and the signed copies of the consent judgment.

## **2.0 Issues to be determined by the Court.**

1. Whether the applicant has proved grounds for revocation of letters of administration of the estate of the late Aligizanda Basajankanga?
2. What remedies are available in the circumstances?



### **3.0 Submissions by Counsel.**

3.1 I perused, analyzed and considered the Applicant's pleadings, written submissions and the consent judgment executed by the applicant and the 1<sup>st</sup> Respondent in determination of this application.

### **4.0 Analysis.**

4.1 Letters of Administration vide Administration Cause No. 714 of 2009 were issued to Kawesa Balunaba and Kassim Lubwama (customary heir and grandson) on 8<sup>th</sup> October, 2009.

4.2 No inventory was filed within the stipulated statutory period.

4.3 On 6<sup>th</sup> October, 2021 the 2<sup>nd</sup> Respondent passed on and the 1<sup>st</sup> Respondent was left as the only administrator of the estate.

4.4 On 15<sup>th</sup> November, 2022 at per the minutes attached to the affidavit in support of the Notice of Motion, a meeting was held at the home of the Kaweesa Absolum Kironde at Nabingo and it is reflected that the family appointed the applicant to administer the estate and to proceed with the legal process.

4.5 According to the minutes the late Aligizanda Basajankanga died in 1938, he was survived by 8 children namely; Erukan Kigozi, Eria Lubwama, Lucy Nanteza, Nalubwama Alikizandareya, Faibe Nakimuli, Leah Nabagala, Janat Nakku and Kawesa Absolum Kironde. That out of the 8 children only 1 survived Isma Lubwama the person who chaired the meeting.

4.6 On 11<sup>th</sup> March, 2024 the parties filed a signed Consent Judgment entered into by the applicant (Kironde Juma) and the 1<sup>st</sup> Respondent to be executed by the court upon making their appearance.

4.7 Part of the consent judgment was to have the 1<sup>st</sup> Respondent Kawesa Balunaba be relieved from the duties as an administrator of the estate



of the late Aligizanda Basajankanga. The 2<sup>nd</sup> Respondent to be removed from the Letters of Administration and the Letters of Administration to be amended to reflect Kironde Juma (the applicant).

## **5.0. The Law**

### **Section 5(1) and (3) of the Administrator General Act, Cap. 157**

“No grant shall be made to any person, except an executor appointed by the will of the deceased or the widower or widow of the deceased, or his or her attorney duly authorized in writing, authorizing the person to administer the estate of the deceased person until the applicant has produced to the court proof that the Administrator General or his or her agent has declined to administer the estate or proof of having given to the Administrator General fourteen clear days definite notice in writing or his or her intention to apply for the grant”.

5.1. Under Sub Section (3), on receipt of such notice, the Administrator General may call upon the applicant for such particulars as he or she may reasonably require in order to determine whether to oppose or consent to the grant; (emphasis supplied).

5.2. Section 278 (1) of the Succession Act, Cap. 162 Provides that “*An Administrator shall, within six months from the grant of Letters of Administration, or within such further time as the Court which granted the Letters may from time to time appoint, exhibit in the Court an inventory containing a full and true estimate of a person to which the executor or administrator is entitled in the character; and shall in like manner within one year from the grant, or within such further time as the court may from time to time appoint, exhibit an account of the estate,*



*showing the assets which have come to his or her hands, and the manner to which they have been applied or disposed of”.*

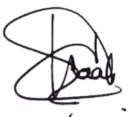
- 5.3. Section 273 of the Succession Act on Survival of executors or administrators.

*“Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.”*

## **6.0. Determination of the Issues by Court**

**Whether the applicant has proved grounds for revocation of letters of administration of the estate of the late Aligizanda Basajankanga?**

- 6.1. The intention of High Court Nakawa in Administration Cause No. 714 of 2009 was to grant Letters of Administration over the estate of the late Aligizanda Nkanga to his customary heir and grandson only as indicated on the Certificate of No Objection which court relied upon to issue the grant of Letters of Administration.
- 6.2. Ordinarily, the court relies on the Certificate of No Objection from the Administrator General because the Administrator General interrogates the whole process, including the beneficiaries and eventually obtains and/ or ascertains a family consent.
- 6.3. The grant Letters of Administration for the Estate of the Late Aligizanda Nkanga to Kironde Juma (the applicant) can only be effected relying on the information detailed on the Certificate of No Objection issued by the Administrator General after due process. For to present minutes of a family meeting is not enough for this court to issue a fresh grant to the applicant. The applicant must satisfy this court that indeed the grant ought to be revoked and a fresh one issued.



- 6.4. In determination of this application, I have observed a contradiction in names of the deceased, the applicant indicated that the deceased vide Administration Cause No. 714 of 2009 was Aligizanda Basanjankanga whereas the Letters of Administration in the said Administration Cause were for Aligizanda Nkanga formerly of Muzizi Village, Namayumba Sub County, Wakiso District. I am certain that the applicant can differentiate between name “Basanjakanga” and “Nkanga”.
- 6.5. The applicant, attached minutes arising out of a meeting held on 15<sup>th</sup> November, 2022 at the home of Kaweesa Absolum Kironde at Nabingo. On studying the said names the chairperson of the meeting Isma Lubwama the head of the family stated that among the 8 children born to the deceased only one survived, himself Isma Lubwama. The listed children born to Aligizanda Basajankanga do not include the chair of the meeting Isma Lubwama.(List of Children are Erukan Kigozi, Eria Lubwama, Lucy Nanteza, Nalubwama Alikizandareya, Faibe Nakimuli, Leah Nabagala, Janat Nakku and Kawesa Absolum Kironde). During the said meeting, it was indicated that the said estate has however been encroached upon by several people who have taken advantage of the fact that there is no known Administrator for the said estate.
- 6.6. According to the application, the 1<sup>st</sup> Respondent is alive and he is still an administrator of the Estate. There is no proof adduced in this court that he is frail and unable to manage the estate. He never made appearance in court to ascertain this allegation and no evidence has been adduced to prove that indeed he cannot manage the estate. Further, in case the chair was truly aware of the said estate, he ought to have mentioned that the surviving administrator is frail and unable



to manage the estate and hence a need to have him replaced or cause him to renounce. This was not subject to the meeting.

6.7. That notwithstanding, in as much as this application is brought under Section 232 of the Succession Act, Cap. 162, the applicant did not submit to it to justify the error on the grant.

6.8. Section 232 of the Succession Act, Provides that; *“Errors in names and descriptions, or in setting forth the time and place of the deceased’s death or the purpose in a limited grant, may be rectified by the court and the grant of probate or letters of administration may be altered and amended accordingly”*.

7.0 The applicant seems to be interested in having the letters altered and amended accordingly almost after one and half decades. (15 years).

7.1. In this submissions, the applicant seems to focus on Section 234 (2) (d) of the Succession Act that upon the death of the 2<sup>nd</sup> Respondent the Letters of Administration became inoperative and therefore having been appointed by the meeting he should be issued with a grant of Letters of Administration.

7.2. This court shall not grant Letters of Administration without due process being adhered to. The surviving administrator is required to exhibit into court an account of the estate showing the assets which have come to his hands and the manner in which the assets have been applied or disposed of. The 1<sup>st</sup> Respondent has never exhibited an inventory since the grant was issued.

7.3. A grant for Letters of Administration is a Court Order as a result of grantees committing and undertaking to administer the estate and file a full and true inventory of the properties and credits and exhibit the same in court within six months from the date of the grant. In this



case there is no inventory filed by the 1<sup>st</sup> Respondent on the record to show how he has been administering the deceased's estate, he has also never exhibited an account.

- 7.4. The applicant having been introduced by the family to obtain the grant of the estate of a Aligizanda Basanjankanga not Aligizanda Nkanga as per the grant and Certificate of No Objection, he should together with his family appear before the Administrator General to conduct the due process for the grant of Letters of Administration. The 1<sup>st</sup> Respondent as earlier indicated in this ruling should file an inventory. This application is decline and no consent shall be executed by this court.

#### **8.0. Conclusion.**

- 8.1. Consequent upon my findings above, I therefore decide as follows;

- 1.The application lacks merit and it is hereby declined.
- 2.The applicant is referred to the Administrator General to obtain a Certificate of No Objection (CONO).
- 3.This Court shall not execute the Consent Judgment.
- 4.No award as to costs.

I so order.

***Dated, Signed and Delivered by email this 15<sup>th</sup> day of March, 2024.***



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**CELIA NAGAWA  
JUDGE**