



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**RESEALING CAUSE NO.E084 OF 2021**

**IN THE MATTER OF THE ESTATE OF MOHAMED ABEID AL –BAGI (DECEASED)**

**ABEID MOHAMED ABEID.....PETITIONER**

**RULING**

1. The deceased herein died intestate on the 27<sup>th</sup> August 1978 while domiciled at Kariokoo Daressalam in the United Republic of Tanzania. He was survived by two daughters and three sons among them the petitioner. Among the assets comprising the estate are a house standing on plot No.7R house 151 Section XV (plot Mombasa XV/621 Majengo Mombasa). On 2<sup>nd</sup> November, 2012, a grant of letters of administration intestate was issued to the petitioner by a court in Tanzania.
2. Subsequently, the petitioner moved to this court seeking resealing of the grant for purposes of securing authority to administer part of the estate which is situated in Kenya. The power for this court to seal a grant issued before any commonwealth country or any other country duly gazetted by the A.G is anchored under Section 77 of the Law of Succession Act and rule 42 of the probate and administration rules.
3. Before a grant is sealed, rule 42 of the probate and administration rules requires that the applicant must produce an Original of the grant or a duplicate or copy thereof duly sealed by the issuing court, a certificate from the commissioner of estate duty to confirm that there is no outstanding estate duty payable and any other evidence as the registrar may require relating to the death of the deceased.
4. Upon submission of the aforesaid information, the registrar is supposed to cause the estate gazetted in the official Kenya gazette for the general knowledge of the public. It is after the expiry of 30 days that the grant can be sealed. In the instant case, the grant for sealing has not been gazetted. Further, the grant should be an original or duplicate or certified copy. What is before court is a photocopy of the grant which is not certified by the issuing court. A copy should bear the original certificate stamp of the issuing court or any recognized authority on its behalf. In this case, that condition has not been fulfilled.
5. In view of the above finding, I am satisfied that the applicant has not met the requisite conditions set out in the law before the grant can be sealed. Accordingly, the application is disallowed. The petitioner to follow the laid down procedure before the court can seal the grant.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MOMBASA THIS 17TH DAY OF DECEMBER, 2021**

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**J.N.ONYIEGO**

**JUDGE**