



IN THE HIGH COURT OF MALAWI

LILONGWE DISTRICT REGISTRY

PROBATE CAUSE NUMBER 507 of 2019

**IN THE DECEASED ESTATES (WILLS, INHERITANCE AND
PROTECTION) ACT**

AND

**IN THE MATTER OF THE ESTATE OF AARON IMVANI
(DECEASED)**

AND

**IN THE MATTER OF AN APPLICATION FOR A LIMITED GRANT
UNDER SECTION 43 OF THE DECEASED ESTATES (WILLS,
INHERITANCE AND PROTECTION ACT BY MALIGELITA
MPHENZI**

CORAM : HON. JUSTICE F.A. MWALE.
: Mpandaguta, Court Interpreter

Mwale, J.

RULING

1. The application before me is for a limited grant of letters of administration for the estate of the deceased, one Aaron Imvani. The applicant is Maligelita Mphozi, daughter of the deceased. The application is made under section 43 of the Deceased Estates (Wills, Inheritance and Protection) Act.
2. I have noted a number of issues with the application which prevent me from making a grant. The first which is typographical, is that the sworn statement in support, in the

opening statement, omits the District which the applicant comes from. The statement merely reads:

*I, Maligelita Mphozi of Mwalara Village, Traditional Authority Chikhaza in
..... District do hereby **MAKE OATH** and **STATE** as
follows:-*

When I noted this, I directed that this gap be filled in on 23rd November 2018. To date, that direction has not been complied with. I have also noted that all the documents filed by counsel refer to the applicant as the “son” of the deceased and the pronoun “he” is used to refer to her. It is only after I directed that identity documents be filed that I realised that the applicant is actually “female” and have therefore referred to her “daughter” in these proceedings. Such sloppiness falls way below what is expected of counsel.

3. In as far as the substantive law is concerned, I have noted the following issues. Rule 25 of the Probate (Non-Contentious) Rules sets out the requirements for an application for an order for a limited grant. The said rule provides as follows:

25. An application for an order for a limited grant to part of an estate shall be made by summons and shall be supported by an affidavit stating –

(a) whether the application is made in respect of the real estate only or part thereof, or real estate together with personal estate, or in respect of a trust estate only;

(b) whether the estate of the deceased is known to be insolvent;

(c) that the persons entitled to a grant in respect to the whole estate in priority to the applicant have renounced either explicitly or by failing to appear to a citation or have consented to the present application.

The sworn statement in support of the application for the grant of a limited grant of letters of administration has not satisfied any of the requirements. There is no mention of whether the estate is solvent or whether other persons entitled to the estate have renounced their interest in favour of the applicant as required in paragraphs (b) and (c)

