




**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case No: 5510/2018

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.
<u>18/4/2019</u> DATE	 SIGNATURE

In the matter between:

MMASELLO CHABANGU

First Applicant

ONNICA MAMAKATE MPYE

Second Applicant

and

ISAAC TAUNYANE N.O.

First Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Second Respondent

JUDGMENT

AVVAKOUMIDES, AJ

1. This is an application in terms of which the Applicants seek an order interdicting the First Respondent from dealing further with the administration of the deceased estate of the late Jerry Nathaniel Mpye, under Master's Ref No. 12942/2015, pending finalisation of the application.
2. The Applicants also seek the removal of the First Respondent as nominated executor and ancillary relief which is not necessary to mention at this stage, given the decision which follows hereunder.
3. The First Applicant alleges to be the biological child of the deceased and the Second Applicant, the former wife of the deceased was divorced from the deceased on 31 July 2002. In terms of the decree of divorce the marriage was dissolved and it was ordered that the joint estate shall be divided. Insofar as the Second Applicant is concerned she alleges that she remains the owner of one indivisible share in an immovable property which remains registered in her name and the name of the deceased.
4. The First Applicant states that the First Respondent, in response to her lodgement of her claim to be recognised as a beneficiary in the estate of the deceased, was verbally informed that her claims are rejected. Counsel for the First Respondent confirmed in his submissions, that the First Respondent is not possessed of any written correspondence or documents because the First Respondent's appointment was made in terms of Section 18(3) of the Administration of Estates Act 6 of 1965. I find it somewhat strange that even

an administrator in terms of the aforesaid Section 18(3) would not be possessed of any document dealing with the administration of the estate in which he has so been appointed. What strikes me as peculiar is the estimated value of the estate appearing from the inventory, the total of which exceeds the threshold applicable to Section 18(3) appointments at the time of the First Respondent's appointment.

5. Counsel for the First Respondent submitted that if the First and Second Applicants felt aggrieved by them not being recognised as beneficiaries in the estate of the deceased, they should institute action against the deceased estate. To some extent this may be correct however the Second Respondent's claim does not arise from the administration of the estate but rather by virtue of the remaining owner of one indivisible half share of the immovable property of the former joint estate. Her claim in this application cannot be entertained.
6. With regard to the First Applicant's claim I must express my concern at how the First Respondent has conducted himself. I have formed the impression that there is some animosity amongst the children of the deceased and this may very well have led to the exclusion of the First Applicant as beneficiary.
7. Given the difficulties I have in deciding this matter on the papers before me and the concerns I have about obvious animosity between heirs, I deem it fit to make the following order:

- (a) The First Respondent is hereby interdicted from dealing with the administration of the deceased estate of the late Jerry Nathaniel Mpye, under Master's Ref: No. 12942/2015, in any manner whatsoever, pending a report by the Master of the High Court and the final resolution of this application.
- (b) The Master of the High Court is hereby directed to cause an investigation into the reasons why the First Applicant was excluded as beneficiary in the deceased estate late Jerry Nathaniel Mpye and to furnish a comprehensive report into such an investigation which report shall be filed under the above case number and considered by the court in the hearing of this application in due course.
- (c) The First Respondent and the Applicant shall cooperate fully with all requests by the Master of the High Court and submit all documentation and all information necessary to the Master for purposes of such investigation.
- (d) The application is postponed *sine die*.
- (e) Once the report of the Master of the High Court has been procured and filed, the parties are hereby given leave to supplement their papers and to re-enrol the application for final determination.
- (f) Costs of this application are reserved.



G.T. AVVAKOUMIDES

ACTING JUDGE OF THE HIG COURT

Representation for Applicants:

Mr V Mabe from Victor Mabe Inc Attorneys

Representation for First Respondent:

Mr KP Seabi from KP Seabi Attorneys

Representation for Second Respondent:

No Appearance