

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

HC-MD-CIV-MOT-GEN-2020/00289

In the matter between:

YOLETA CAMPBELL

1ST APPLICANT

AMOREY THERESIA POTE

2ND APPLICANT

and

MASTER OF THE HIGH COURT

1ST RESPONDENT

RONEL POTE

2ND RESPONDENT

Neutral Citation: *Campbell v Master of the High Court* (HC-MD-CIV-MOT-GEN-2020/00289 [2021] NAHCMD 25 (04 February 2021)).

CORAM: **MASUKU J**

Heard: Determined on the papers

Delivered: 04 February 2021

Flynote: Estates – Last Will and Testament – Validity thereof – Signature of the second witness not appearing at the end of page 2 but at the top of page 3 thereof – Non-compliance with section sec. 2 (1) of the Wills Act 7 of 1953 – Court satisfied that the intention of the testator to have his estate devolve in accordance with the

laws of testate succession, in close embrace of the freedom of testation recognised in Art 16 of our Constitution, is present in the instant case.

Summary:

This matter appeared on motion court on an unopposed basis. The applicants challenge a decision by the Master of the High Court (hereafter referred to as the Master) invalidating portions of a last Will and Testament and invalidating an earlier Will. The Master's reasons were that the first Will executed in 2008 had been validly revoked by the deceased by the execution of the second Will in 2017. The Master further decided that the 2017 Will does not strictly comply with the requirements of s. 2(1) of the Wills Act 7 of 1953 (hereafter referred to as 'the Act') because the signature of the second witness does not appear at the foot of page 2 but at the top of page 3. Evidence in the form of affidavits was submitted by the applicants herein.

Held: that some matters, even if unopposed, may raise very crucial and sometimes ground-breaking precedent that would require the court to carefully consider the matters arising and delivering a reasoned judgment, the non-opposition notwithstanding.

Held that: the Wills Act does not make any provisions regarding the circumstances in which the revocation of Wills takes place.

Held further that: the decision of the Master in question, serves to frustrate the testator's manifest intention to have his estate devolve in accordance with the laws of testate succession.

Held: the Master's decision in question, is wrong in law and deserves, for that reason, to be declared null and void and of no force or effect.

Held that: when regard is had to all the relevant formalities, it would be correct to say that there was substantial compliance with the requirements of the Act.

Held further that: where there is substantial compliance with formalities contained in the Act, taken together with factors as set out herein, the court should give effect to the manifest intention of the testator and not frustrate it.

ORDER

1. It is declared that the last Will and Testament executed at Hentiesbay on 18 July 2017 by the late Wilken Pote, (“the deceased”), who died on 18 March 2020 is a valid Will and Testament.
 2. The Master of the High Court of Namibia be and is hereby ordered and directed to accept and register the last Will and Testament of the late Wilken Pote, referred to in paragraph 1 above, as the valid last Will and Testament of the deceased, for purposes of the Administration of Estates Act, 1965.
 3. There is no order as to costs.
 4. The matter is removed from the roll and is regarded as finalised.
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JUDGMENT

MASUKU J:

Introduction

[1] Serving before court presently and submitted for determination, is an unopposed application for the declaration of the Last Will and Testament of the late Wilken Pote, (“the deceased”), who departed from this jurisdiction on to the celestial on 18 March 2020, a valid testament.

[2] An enquiring mind may justifiably raise this poser – if the matter is as is obvious, decidedly unopposed as recorded above, why should the court not merely

grant the relief prayed for and avoid the painstaking route of having to pen a judgment, running up costs of preparing heads of argument and taking up much needed time for dealing with other matters?

[3] That concern valid, as it may be, would overlook the fact that some matters, even if unopposed, may raise very crucial and sometimes ground-breaking precedent that would require the court to carefully consider the matters arising and delivering a reasoned judgment, the non-opposition notwithstanding. The fact that a matter is unopposed does not therefor mean that the court must, as a matter of course, proceed to grant the order prayed for.

[4] In this particular matter, which served before me on motion court on an unopposed basis, drew my attention and I accordingly required counsel, because the matter is not straightforward, to prepare heads of argument to assist the court in making a determination of the proper relief to grant.

[5] Whatever inconvenience and costs may have been occasioned to the applicants in the instant case, should be viewed from the perspective of the importance of matters relating to Last Wills and Testaments in the proper and lawful administration of deceased estates. I hope Ms. Campbell, the 1st applicant, being an officer of this court, will readily accept the court's position in this matter as these matters should be determined with scrupulous care and given undivided attention.

The parties

[6] The 1st applicant, as intimated above, is Ms. Yoleta Campbell, an adult female legal practitioner and a member of the Society of Advocates of Namibia, and in good standing. The 2nd applicant, is Ms. Amorey Theresia Pote, a female adult and sister to the 1st applicant. Both applicants are biological daughters of the deceased.

[7] The 1st respondent, is the Master of the High Court of Namibia who has been cited by virtue of the powers vested in her by the provisions of s. 8 of the Administration of Estates Act, 1965, ('the Act'). She has been specially cited in this

matter for the reason that in terms of the law, she is the official responsible for the registration of Last Wills and Testaments in Namibia.

[8] The 2nd respondent, is Ms. Ronel Pote, the widow of the deceased. She is a pensioner and is resident in Hentiesbay. She had been married to the deceased out of community of property on 14 October 2011. Evidently, no relief is sought against the 2nd respondent but was cited for the obvious interest that she has in the order sought.

Relief sought

[9] The applicants, in their application approached the court seeking the following relief:

‘1. An order declaring that the last will and testament executed at Hentiesbay on 18 July 2017 by the late Wilken Pote, who died on 18 March 2020, is valid.

2. An order directing the Master of the High Court of Namibia to accept and register the last will and testament referred to in prayer 1 hereof, as the valid last will and testament of the late Wilken Pote, who died on 18 March 2020, for purposes of the Administration of Estates Act, 1965. Alternatively,

3. An order directing the Master of the High Court of Namibia to accept and register the joint will duly executed at Oranjemund on the 29th of August 2008 by the late Wilken Pote and the late Yolanda Pote, as the valid last will and testament of the late Wilken Pote, who died on at Windhoek on 18 March 2020, for purposes of the Administration of Estates Act, 1965.

4. Costs of this application, only in the event of opposition.’

Background

[10] The events giving rise to the present application are to be found in the founding affidavit of the 1st applicant, Ms. Campbell. Her sister, the 2nd applicant filed a confirmatory affidavit. In light of the fact that there is no opposition and hence no counter-allegations made by the respondents, it is safe to state that the allegations by

the applicants, deposed to under oath, shall be accepted as the correct version of facts. It is to those facts that the relevant principles of the law applicable, will be brought to bear.

[11] The applicants depose that the deceased, who had been diagnosed with stage 4, lung cancer, at the end of January 2020, passed on in Windhoek on 18 March 2020. At the time of his demise, the deceased had left two Wills. The first was jointly executed in 2008 by the deceased, together with the applicants' mother, who predeceased the deceased. The second, was executed by the deceased in 2017, after his first wife, the applicants' mother, it would seem, had herself passed on. The applicants depose that their mother's estate was administered by FNB Trust Services in terms of the first Will.

[12] The applicants further depose that FNB Trust Services was nominated as executors in both Wills, i.e. the 2008 and the 2017 Wills. The applicants accordingly lodged both Wills with the office of the Master. After the deceased's death, the Master, by letter dated 2 June 2020, accepted page 1 of the 2017 Will but simultaneously rejected pages 2 and 3 of the said Will. The reason advanced for the rejection, was that the said rejected pages did not comply with provisions of the Wills Act, 1953, ('the Wills Act').

[13] That is not all. The Master proceeded to also reject the first Will for the reason that the testator, i.e. the deceased had validly revoked the first Will in the second Will executed in 2017, as aforesaid. The Master adopts the position that the 2017 Will does not strictly comply with the requirements of s. 2(1) of the Wills Act because the signature of the second witness does not appear at the end of page 2 but at the top of page 3. This, according to the Master, renders part of the Will invalid therefor.

[14] It is necessary before proceeding to determine the legal questions that arise for determination, to record some matters deposed to on oath by the applicants. In this regard, these are matters within the peculiar knowledge of the 2nd applicant and she filed a confirmatory affidavit to that effect.

[15] The 2nd applicant deposes that she, on the deceased's request, assisted the latter, during the December 2016 holidays, to type in the serial numbers of the firearms that he wished to bequeath to the applicants. This, she did in the electronic version of the deceased's Will and about six months before the Will was duly executed.

[16] The 2nd applicant deposes that at the time she rendered the assistance, the Will consisted of two pages only, apart from the front page. There was, at the time, no provision made for the testator's signature and that for the witnesses. The 2nd applicant confirms that the ammunition and gun-loading equipment, reflected in the Will was not included at the time she assisted her father.

[17] It is the 2nd applicant's case that she suspects that the deceased typed in those details after he had been assisted by the 2nd applicant. The applicants depose that the deceased, although he could send an odd email from time to time, did not have impeccable computer skills. This, the applicants state, may explain why the addition of the details of the serial numbers may have caused the signature of the 2nd witness to the Will, to roll over to the next page.

[18] The 1st applicant deposes that the deceased, about a year before his demise, informed her that he executed a Will and that he had lodged the original with the Hentiesbay Branch of First National Bank of Namibia, who were the deceased bankers during his lifetime. It is the 1st applicant's case that she did not, however, personally check if the Will had been validly executed during the deceased's lifetime. She assumed that FNB Trust Services would have drafted the Will and ensured that it had been duly executed.

[19] The 1st applicant further states that she, upon the deceased's death, made enquiries with the witnesses to the Will, namely Mrs. Paremore and Mr. Ndume, of FNB of the circumstances in which the Will was signed. It appears that the deceased had meant for the said Will to be His last Will and Testament. It must also be mentioned that the 1st applicant deposes that the deceased, on at least five separate occasions, before his demise, reminded her that his Will had been deposited with

FNB and that a copy had been deposited in his safe located at his house in Hentiesbay.

[20] It is also the applicant's deposition that the deceased also gave instructions to the 1st applicant as to what to do upon his death, as he was very sick and acutely aware that he did not have much time to live. He instructed the 1st applicant to take charge of his safe keys upon his death. He further informed her that all his affairs were in order, including his Will.

[21] Indeed, the 1st applicant continues to depose, after the deceased's death, she and the 2nd applicant, collected the testator's original Will from FNB. The 1st applicant also proceeded to the deceased's safe and collected an envelope, which had been sealed and signed by the testator. The front of the envelope bore that 1st applicant's name. I should mention that the copy of the envelope and the inscriptions thereon, were attached to the applicants' papers. Both applicants state that they recognised the handwriting on the envelope as that of their father.

[22] The 1st applicant states that upon inspection, she discovered that the envelope contained a duplicate original of the Will collected from FNB. The following became plain from reading same, namely that:

- (a) the Will was executed by the deceased on 18 July 2017 at Hentiesbay;
- (b) the Will consisted of four pages, including the first page;
- (c) the cover page identified the document was the 'Last Will and Testament of Wilken Pote, 57110900258'.
- (d) the first page is signed by the testator and two witnesses;
- (e) the second page is signed in full by the testator and one witness, identified as Lynette Paremone, (id number 69092600180);
- (f) the third page (i.e., the last page) was signed by second witness only, i.e. Mr. Jonas Ndume (i.d. number 9308190026) and
- (g) the testator had specially bequeathed his firearms and immovable property to the applicants as the only beneficiaries of the estate, which estate was to be shared equally by the applicants.

[23] As indicated earlier, in relation to the other allegations deposed to by the applicants, in the absence of answering affidavits challenging the factual averments made by the applicants and in the absence of any indications that would serve to portray the applicants' allegations as being preposterous, unreasonable, contrived or apparently in conflict with general human behaviour, these should be able to stand.

[24] Where the applicants say they assume a certain state of facts to have happened, the court would have to consider whether that supposition is, in all the circumstances, including that the applicants are the deceased's daughters and only children of the deceased, are unreasonable or for some other reason, worthy of being thrown out of hand as preposterous and not in keeping with normal human behaviour.

Determination

[25] As indicated earlier, there are two main questions that the court is called upon to determine. The first is whether because of the failure by the testator, to strictly comply with the provisions of the formal requirements of the Wills Act, the Master was correct in refusing to accept and register the deceased's 2017 Will. The second question, is whether the Master was correct in rejecting pages 2 and 3 of the 2017 Will, having accepted page 1 thereof.

[26] I will decide the latter question first and I proceed to do so immediately below.

Was Master correct to accept parts of the 2017 Will and to reject other parts?

[27] The Master, by letter dated 02 June 2020, advised FNB Fiduciary, as follows, in part:

'Kindly note that:

- (a) The joint will of the deceased, dated 29 August 2008, has been rejected for the reason that it was revoked by the testator in the second will, dated 18 July 2017.
- (b) Page one of the will dated 18 July 2017 has been accepted, however page two and three have been rejected for the reason that page two and three thereof do not comply with the requirements of a valid will in terms of the Wills Act 7 of 1953.

3. In the light thereof, the assets of the deceased listed on page two of the will, will be distributed in terms of intestate laws. . .'

[28] The question that logically follows is whether the Master was correct, having found that pages 2 and 3 of the 2017 Will, were invalid for non-compliance with the formal requirements of a Will, that the 2008 Will, was invalidated by page 1 of the 2017 Will.

[29] It is unfortunate that the Master did not advance any reasons for the decisions she made. In particular, there is no indication as to how a Will can be partially effective, thus being valid and also defective and thus partially invalid. The question is whether it is legally possible for a Will to be invalid in parts but still be able to have valid portions. In other words, does the doctrine of severance apply in Wills and in terms of which certain portions may be valid and others be invalid?

[30] When one has regard to the provisions of the Act, it becomes immediately clear that the Act does not make any provisions regarding the circumstances in which the revocation of Wills takes place. This is an indication that the Legislature intended those aspects to be left 'to the care of our common law'.¹

[31] If the 2017 Will was, as the Master contends, invalid for want of formalities required in the Act, how could that invalid Will, in part, give life and force revoking the earlier Will of 2008? I am of the considered opinion that it would, generally speaking be incorrect for the Master, of her own, to apply the doctrine of severance and declare certain portions of a Will valid and others invalid.

[32] In this regard, when one has proper regard to the 2017 Will, the portion on page 1 that the Master rendered effective and valid, was the one in which the testator revoked all his 'previous Wills and testamentary writings' and where he nominated FNB, Estate Division, to be the executor of his estate. If the Will in question, was invalid for lack of statutory formalities, it boggles the mind why one portion, which cannot stand on its own as a Will, because it lacks the formalities and information that render it a testamentary bequest. It does not make any mention, standing alone, of what is to be bequeathed to whom and by who.

¹ Marais v The Master 1984 (4) SA 288 (D) at 291F.

[33] The learned author Erasmus² says the following regarding this particular matter:

‘ . . . Though the failure to sign and witness all the pages of a will in accordance with the prescribed formalities generally invalidates the whole will, the courts have on occasion upheld the portion of the will which was validly executed. The test generally adopted for determining whether the properly executed or attested parts of a will can be regarded as the complete will, when improperly executed or attested parts are discarded, is that laid down in *In re Morkel's Will*, namely whether the whole of the dispositions of the testator's property are contained in the validly executed parts of the will. In *The Leprosy Mission v The Master of the Supreme Court* it was held that the true reasons underlying the decisions upholding part of a will is not whether the invalidly executed portions contain something other than non-essential matter but whether the dispositions on the validly executed page are unaffected by the dispositions on the validly executed page and can be given effect to without the testator's intentions or bringing about a result which he never intended . . . ’

[34] I am of the view that in the instant case, the invalidated portions are the material ones in which the actual dispositions to the heirs are contained. As mentioned, the only information contained in the portion upheld by the Master contains the revocation of the 2008 Will and the appointment of the executors. The validated portion, standing alone is in my view, hopelessly incomplete for the purposes of disposition and fell to be rejected *in toto*. As such, the doctrine of severance would not apply.

[35] In any event, if the Master is correct in the view that the last Will of 2017 is invalid for lack of formalities prescribed by the Act, an issue the court will deal with later in the judgment, it would be incorrect, in those circumstances, as the Master sought to do, to also render the previous 2008 Will invalid. I say so for the reason that there is nothing stated by the Master rendering the Will invalid on its own.

[36] If the said 2008 Will is not defective and thus not invalid for any reason than the clause in the later Will serving to revoke the former, it makes legal sense that the testator should, in the eventuality, be allowed to revert to the previous Will, which is

² Erasmus, *The South African Law of Succession*, 1st edition, p 45.

otherwise valid and compliant, it would seem, with the formal provisions of the Act, save that it was revoked by the testator.

[37] I say so for the reason that the Master does not, anywhere in her letter in question, state that the 2008 Will is invalid for any reason other than it being revoked by the latter Will. The decision of the Master in question, serves to frustrate the testator's manifest intention to have his estate devolve in accordance with the laws of testate succession. In this regard, I find that the Master's decision in question, is wrong in law and deserves, for that reason, to be declared null and void and of no force or effect.

[38] The conclusion that I have arrived at in the preceding paragraph, is consistent with the views expressed by Voet, in the 17th century, where he stated that 'an earlier last will is not broken by a later unless the later was such that it was possible for an heir to come into being in virtue of it'. I accordingly return an answer in the applicants' favour regarding the first pose as stated above.

Should the Court direct the Master to comply with the 2017 Will despite the failure to strictly comply with the formal requirements of the Act?

[39] It is a matter of consensus and concession, even from the applicants' point of view that the formal validity provisions of s. 2(1) (a) and (b) of the Act, were not fully complied with by the testator. In this regard, the formal requirements are that the testator and at least two competent witnesses must have signed the will or the codicil in the presence and at the direction of the testator. It is the applicants' case that even though there was no strict compliance with the formal requirements, there was, at the least, substantial compliance therewith. Is this contention correct so as to be upheld?

[40] I am of the considered view that it is important to answer this question from the point of view of the mischief the legislature had in mind when it legislated the formal requirements. There is no contestation that prime in the legislature's mind, was the prevention of fraud during and after execution of the Will or the codicil thereto; to ensure that testamentary dispositions are made freely and voluntarily; to secure the

validity of testator's final dispositions and to prevent uncertainty and speculation regarding the intentions of the testator.³

[41] In this regard, the courts should, in interpreting the Wills, ensure that in determining the validity of Wills, they take into account these factors and where there is substantial compliance that suggests inexorably that the factors mentioned in the immediately preceding paragraph are not materially violated, the court should give effect to the manifest intention of the testator and not frustrate it.

[42] In the instant case, the background to the drafting of the Will and which cannot be rejected, is given by the applicants. They paint on the canvass the personality of the testator and what he had told, especially the 1st applicant regarding his Will and what she should do when he joins the path in the celestial jurisdiction. The 2nd applicant also gives an explanation, which in my considered view, is plausible as to how it came to be that the Will did not fully comply with the formal requirements. If there had been no signatures at all of the testator or the witnesses, this would present a totally different kettle of fish.

[43] In the instant case, the signatures by the testator and his witnesses, whom it is not suggested are not competent legally, are present. These witnesses confirm their signatures and that they signed in the testator's presence and at his or her direction. The witnesses, it must be said, are independent employees of FNB with nothing to gain for pushing any narrative in the applicants favour. There is no basis to question their impartiality and independence in this regard. Their version appears to confirm the events narrated by the applicants.

[44] In particular, Ms. Paremore, for instance deposes on oath that she was approached by the testator in 2017, when he visited the FNB Branch and he was in a hurry. He mentioned that he was on his way to South Africa but needed Ms. Paremore to assist him to witness his Will before he left. He informed Ms. Paremore that he had prepared the Will himself and required that she and Mr. Ndume, her colleague at FNB, witness it in his presence. He signed it in their presence and they witnessed it in his and each other's presence.

³ J H Langein '*Substantial Compliance with the Wills Act* (1975) 88 Harvard Law Review 489 at 498.

[45] She deposes further that the testator undertook to collect it on his return from South Africa. He had two copies and he asked Ms. Paremore to keep one copy. She forgot about it until she was informed by one of his daughters in Windhoek that he had passed on and the copy in her possession was required. She looked for it and found it and accordingly handed it over to the deceased's daughter. She confirmed her signature and that of her colleague, Mr. Ndume on the Will.

[46] It is accordingly clear that the testator signed the Will in the presence of the witnesses and in each other's presence. It is also plain that the witnesses were required by the testator to witness and the execution of the Will. This, in my view, shows inexorably that the provisions of the Act in this regard, were complied with, thus ameliorating any chance of fraud in the circumstances.

[47] I do not consider it inconsequential that on the evidence before me, the deceased was a lay-person. As a result, he would not have been expected to have been *au fait* with all the formal requirements of law regarding the execution of Wills. He would not, in the circumstances, have been expected to draft a Will that would meet the high standards that a lawyer or an administrator of estates may. As long as the issues intended to be avoided by the legislature in enacting the legislation as stated in paragraph 40 above, are excluded, the court should be slow in rejecting the Will in question.

[48] I am accordingly satisfied that in the present case, the intention of the testator to have his estate devolve in accordance with the laws of testate succession, in close embrace of the freedom of testation recognised in Art 16 of our Constitution, is present in the instant case. I am also satisfied that when regard is had to all the relevant formalities, it would be correct to say that there was substantial compliance with the requirements of the Act.

[49] Is there sufficient reason in this case, why the doctrine of substantial compliance should not apply, so as to protect the testator's Art 16 rights? I do not find any such reason. The court should, in my view avoid what has been referred to as

judicial insistence that any defect in complying with such formalities should automatically and inevitably serve to void the testator's Will.

[50] It must be mentioned that in adopting the approach that I have in this matter, the court is in good company, especially in the light of a decision by Ueitele J in *Mwoombola v The Master of the High Court*⁴. The court, in that case held that an order invalidating a Will for non-compliance, may, in certain circumstances, be tantamount to a violation of the right to the freedom of testation provided for in Art 16. The court also advocated for statutory reform.⁵

[51] I would, in this regard, add my voice to the justified sentiments expressed by my Brother in the *Mwoombola* case for reform of the legislation. This would be to ensure that as far as possible and reasonable, the freedom of testation as enshrined in the Constitution is preserved. An interpretation that has its end the violation of the freedom from testation, when there is no latent danger that may result in fraud or other of the solitudes referred to in para [40] above should, in my respectful opinion be avoided like a plague.

[52] Our neighbour, South Africa, with whom we share a lot in terms of common legal heritage, has, in order to avoid the clutches of injustice arresting the manifest will of testators for reason of some minor and often inconsequential oversight or error, introduced a way out. This came in the form of a 'condonation' introduced in legislation in 1992. Its effect is to empower the court, in appropriate cases, to issue an order for condonation in cases where an irregular Will or amendment has been filed.⁶

⁴ *Mwoombola v The Master of the High Court* 2018 (2) NR 482 (HC).

⁵ Para 36 and 37 of the judgment.

⁶ The Law of Succession Amendment Act, No. 43 of 1992 in section 3(g) adds the following amendment:

'If a court is satisfied that a document or the amendment of a document drafted or executed by a person who has died since the drafting or execution thereof, was intended to be his will or an amendment of his will, the court shall order the Master to accept that document, or that document as amended, for the purpose of the Administration of Estates Act, 1965 (Act. Of 1965), as a will, although it does not comply with all the formalities for the execution or amendment of wills referred to in subsection (1).'

[53] In order for the court to grant condonation, certain requirements are met, namely, (i) that there is a written document that serves before court; (ii) such written document or amendment must have been drafted or executed by a person who has subsequently died; and (iii) the deceased must have intended that such document to be a Will or an amendment thereof. A similar approach should be vested in the courts by the legislature in order to ensure that deceased persons' wishes are not easily circumvented by minor irregularities which throw no doubt on the authenticity of the document or the intention of the maker.

Conclusion

[54] In view of what is discussed above, I am of the considered opinion that applying the doctrine of substantial compliance, this is a proper case in which to uphold the Master's position would yield grave injustice. It would result in the manifest intention of the testator, as described by the applicants, and to which there is no dissenting voice, to be rendered inconsequential and thus nugatory. This court would not align itself with such a position in the peculiar circumstances of this case.

[55] In the premises, I am of the considered view that this is a proper case in which the promissory note contained in Art 16 of the Constitution must be cashed by the applicants. The Master's decision in the instant case, must, in my considered view, and for the reasons advanced above, declared null and void, as I hereby do.

Order

[56] The above discussion and conclusions lead me to the considered view that the following order is condign in the circumstances, namely:

1. The Last Will and Testament executed by the late Mr. Wilken Pote, the deceased, who died on 18 March 2020, on 18 July 2017 in Hentiesbay, is hereby declared a valid Last Will and Testament.
2. The Master of the High Court of Namibia of Namibia, is hereby ordered and directed to accept and register the Last Will and Testament of the deceased, referred

to in paragraph 1 immediately above, for purposes of the Administration of Estates Act, 1965.

3. There is no order as to costs.

4. The matter is removed from the roll and is regarded as finalised.

T.S. MASUKU

Judge

APPEARANCES:

APPLICANTS:

J. Marais SC, assisted by A. Van Vuuren

Instructed by:

Francois Erasmus & Partners