

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

PROBATE AND ADMINISTRATION CAUSE NO. 7 OF 2019

FOR

**IN THE MATTER OF THE ESTATE OF THE LATE MARY WALTER
NINDI**

AND

**IN THE MATTER OF PETITION FOR LETTERS OF ADMINISTRATION
BY**

BARNABAS ANDREW NINDI-----PETITIONER

RULING

07/10/2021 & 07/10/2021

I. C. MUGETA, J

Barnabas Andrew Nindi (the petitioner) and Stella Msekwa Shekhe (the caveator) are relatives of the late Mary Barnabas Nindi. While the petitioner believes the deceased died intestate, the caveator believes the deceased left a will in which she is named as executor and sole heir. Consequently, the petitioner petitioned for a grant of the letters of administration in Probate and Administrator Cause No. 07/2019 which he filed on 19/2/2019. At the same time, the caveator petitioned for grant of Probate Vide Probate Cause No. 8/2019 which was filed on 20/2021. These cases had to be consolidated and since then the petitioner and the


caveator have been locked in litigation on who should administer the estate. In each petition, the other party filed a caveat. As the petitions were contentious, the consolidated petitions turned into a suit in terms of section 52 (b) of the Probate and Administration of Estate Act [Cap 352 R.E. 2002]. The caveator presented her case and closed it. When the case for the petitioner started, I engaged the parties and their counsel to discuss one of the issue which was framed thus:-

"What properties form the estate of the deceased"

The petitioner is represented by Irene Maira while the caveator is represented by Traform Tarimo, learned counsel. I raised the concern because the file was reassigned to me on the retirement of the trial judge. Upon reading the affidavit and counter affidavit filed, I became curious on whether the said issue was amenable to determination in this file. It seemed to me that part of the mentioned deceased's estate formed part of the unadministered estate in Probate and Administration Cause No. 42/2018 of this court where the petitioner is the administrator . As we discussed my concern, the parties agreed that the will was invalid and Stella whom the petitioner did not include in his petition is a lawful heir of the estate of the late Mary. On that account, the caveator agreed to withdraw the caveat. In order to end the litigation between them, the parties agreed further that property on plot No. 20 block F, Msasani Dar es Salaam which is subject of the petition be given jointly to Oscar, Barnabas and Elicia Barnabas Nindi while through Probate No. 42/2018, the property on plot No. 732, Block 12, Mwanyamala , Dar es Salaam be given to the caveator. This development turned this

petition into non – contentious and for that matter I hereby mark both caveats as withdrawn. I proceed to appoint the petitioner as administrator of the deceased's estate. The purported will is declared invalid for disinheriting other beneficiaries.




I. C. Mugeta

Judge

07/10/2021

Orders:-

- Administrator to file inventory by 20/10/2021
- Hearing on 21/10/2021 at 14:00 hours.
- Grant of letters of administration to issue

Sgd: I. C. Mugeta

Judge

07/10/2021