

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA**

PROBATE AND ADMINISTRATION CAUSE NO. 11 OF 2020

In the matter of the Estate of the late BALJIT SINGH PANDHER of Dodoma
Municipality/city

AND

In the matter of the Application for Letters of Administration by RAJBIR BALJIT
PANDHER

RAJBIR BALJIT PANDHER PETITIONER

20/12/2021 & 29/12/2021

RULING

MASAJU, J

The Petitioner, Rajbir Baljit Pandher, has petitioned the Court under Section 56 (1) of the Probate and Administration of Estates Act, [Cap 352] for grant of Letters of Administration of the estate of the late Baljit Singh Pandher, his biological father who died intestate.

There has been General Citation of the Petition upon which a Caveat has been filed in the Court. The Caveat against the petition was filed in the Court by one Halima Hussein Salum on the 7th day of December, 2020. The Caveat forms Civil Case No. 1 of 2021 in the Court between the parties. So, on the 17th day of May, 2021 the parties by consensus agreed that the Petition be stayed pending hearing and determination of the said Civil Case No. 1 of 2021 in the Court. The Court ordered the Petitioner not to dispose

or deal with the property, which belongs to the estate of the late Baljit Singh Pandher in any manner that is prejudicial to the rights and interests of the beneficiaries of the estate, the caveator inclusive, pending the hearing and determination of the Petition.


Then on the 9th day of November, 2021 when the Petition was called upon for mention, the petitioner through the service of his learned counsel, Mr. Godwin Ngongi, prayed to amend the Petition particularly paragraph 2 and the Consent of Heirs with a view to removing certain names from the list of heirs, so as to facilitate the lifting of the caveat for the would be smooth and timely disposal of the Petition. The prayer for amendment of the Petition was made under Rule 115 A (1) (a) of the Probate Rules, 1963.

The Caveator, through the service of her learned counsel, Mr. Emmanuel Bwire, contested the prayer because the Petitioner had not clarified the alleged defect in form or substance and that since the petition has already been contested and there is Civil Case No. 1 of 2021 in the Court to that effect, there should be no amendment of the Petition but withdrawal of the Petition altogether from the Court with a view to working on the matter the Caveator has complained of. That, the prayer by the Petitioner to amend the Petition be dismissed accordingly.

On rejoinder, the Petitioner maintained his submissions in chief and added that in the event his prayer is granted, there will be no addition of any new matter to the Petition and therefore the amended Petition shall not affect Civil Case No. 1 of 2021 in the Court. That, the amendment was therefore, not intended to affect the Caveat. The Petitioner prayed the Court to exercise its discretionary powers under Section 115 A (1) (a) of the Probate Rules, 1963 to grant the prayers accordingly.

The prayer by the Petitioner to amend his Petition at this stage where there had been a Caveat and Civil Case No. 1 of 2021 to that effect and Misc. Civil Application No. 10 of 2021 in the Court by the Caveator for appointment of a Receiver pending grant of Letters of Administration and the impugned Petition has been stayed pending disposal of the Civil Case No. 1 of 2021 in the Court as between the parties is misconceived. The prayer is hereby dismissed for want of merit.

The Petitioner, instead, may work on the would be the solution to the issues raised in the caveat for the would be timely amicable disposal of the Petition in the interest of the lawful beneficiaries (heirs) of the estate of the late Baljit Singh Pandher accordingly.



GEORGE M. MASAJU

JUDGE

29/12/2021