

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(TEMEKE HIGH COURT SUB-REGISTRY)**

**(ONE STOP JUDICIAL CENTRE)**

**AT TEMEKE**

**PROBATE AND ADMINISTRATION CAUSE NO. 140 OF 2022**

In the matter of the estate of the Late

**HARUNA KIZUGANYA MAKOMBE ..... DECEASED**

**AND**

In the matter of application for letters of administration by

**ANNA MWAKALINGA ..... PETITIONER**

**RULING**

Perusal of the court records indicate that, caveators have attached death certificate that proves death of deceased to be on 3<sup>rd</sup> June, 2021. On the other hand petitioner has sworn an affidavit confirming death of deceased to be 3<sup>rd</sup> June, 2021 and buried on 3<sup>rd</sup> June, 2022 being after one year contrary to the death certificate attached by caveators in the affidavits.

When issue raised by the court, petitioner counsel, requested for amendment of an affidavit citing Court of Appeal decision in Jamal S. Mkumba and another Vs. AG, Civil application number 240/1 of 2019 at Dar es salaam (unreported). Caveators counsel A.B. Nkuhi rejected prayer by petitioner counsel Mr. B.E. Meli, insisting that petition is incompetent that need to be struck out.



From the pleadings by caveators, there is no dispute that deceased death occurred on 3<sup>rd</sup> June, 2021, in terms of death certificate attached to the caveators affidavit supporting appearance by caveators. Equally so, petitioner counsel is not disputing date of deceased death, that is why he is requesting for an amendment of petitioner's affidavit certifying death to be in line with death certificate. I don't see any harm to allow amendment of the affidavit to that effect. The amendment will not prejudice caveators case in anyhow. Thus, prayer to amend affidavit confirming death of deceased is granted. Same to be filed within seven (7) days from today. Mention on 6<sup>th</sup> April, 2023, to ensure compliance and set date of hearing.



  
**Z.M. Goronya**

**Judge**

**23/02/2023**

Ruling delivered in presence of Boniface Erasto Meli counsel for applicant and Albert Sylvester Nkuhi counsel for the respondent.



  
**Z.M. Goronya**

**Judge**

**23/02/2023**