



REPUBLIC OF KENYA



In re the Estate of Zakayo Njuguna Gitau (Deceased) (Succession Cause E012 of 2021) [2024] KEHC 10113 (KLR) (13 August 2024) (Ruling)

Neutral citation: [2024] KEHC 10113 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
SUCCESSION CAUSE E012 OF 2021
GL NZIOKA, J
AUGUST 13, 2024**

IN THE MATTER OF

**MARY NYAMBURA NJUGUNA 1ST PETITIONER
FRANCIS KIMANI NJUGUNA 2ND PETITIONER
SAMUEL NGOYO NJUGUNA 3RD PETITIONER**

RULING

1. The application herein is summons for rectification of grant. The applicant is seeking for orders that: -
 - a. The Honourable court do allow for the substitution of one of the beneficiaries in the certificate of confirmation of grant, Francis Kimani Gitau who is now deceased, with Esther Nyambura Kimani the widow to the deceased herein.
 - b. That the costs of this application be in the cause.
2. The application is supported by the grounds thereto wherein it is stated:
 - a. That Francis Kimani Gitau who is a beneficiary of the estate of the above named Zakayo Njuguna Gitau (deceased) as per the certificate of confirmation of grant issued on the 20th January 2023 has since become deceased.
 - b. That the said Francis Kimani Gitau (deceased) was allocated land reference No. Nyandarua/ Kirima/997 as per the list of distribution of the deceased's assets contained in the confirmation of grant.
 - c. That the beneficiaries of the estate have since agreed to substitute Francis Kimani Gitau (deceased) with Esther Nyambura Kimani and his shares being Land Reference Nyandarua/ Kirima/997 be allocated to her as well.



- d. That upon the occurrence of the said death of Francis Kimani Gitau that this application is made.
3. The application is also supported by the affidavit of the applicants who reiterates what is stated in the afore grounds that; Zakayo Njuguna Gitau died 0n 10th October 2020 and was survived by inter alia a beneficiary Francis Kimani Gitau.
 4. That the beneficiary was allocated Land Reference No. Nyandarua/Kirima/997 vide the certificate of confirmation of grant issued on 20th January 2023. However, Francis Kimani Gitau died on 11th March 2024 before the land was transferred to him.
 5. That Francis Kimani Gitau is survived by his widow Esther Nyambura Kimani and that, the beneficiaries of the estate of Zakayo Njuguna Gitau have agreed that Francis Kimani Giatu (deceased) be substituted with his widow Esther Nyambura Kimani and his share being Land Reference No. Nyadarua/Kirima/997 be allocated to her as stated in the new mode of distribution as set out in paragraph 10 of the supporting affidavit be adopted. That this will facilitate effective administration of the deceased's estate.
 6. I have considered the application in the light of the materials placed before the court and I note that the applicants have annexed to the affidavit in support thereof, a copy of the certificate of confirmation of grant issued by court this matter on 13th February 2024, a death certificate of Francis Kimani Gitau which shows he died on 11th March 2024, after the confirmation of the grant and a letter from the chief indicating the survivors and or beneficiaries of the estate of the said deceased Francis Kimani Gitau.
 7. I further note that, the chief states in the subject letter that the family of the deceased have agreed that, the proposed beneficiary by the name Esther Nyambura Kimani, the widow of the deceased be substituted as the administrator of the deceased's estate.
 8. However, the law requires that said widow apply for legal status to administer the estate of the deceased and/or be legally recognized as the administrator of the estate of the deceased. That has not been done. Furthermore, there is no evidence that the children of the said deceased have consented to the proposed widow to be so substituted as such.
 9. The chief's letter and/or consent of the beneficiaries in the matter herein is not sufficient to clothe the proposed administrator with capacity to administer the estate of her deceased husband.
 10. In the given circumstances, I decline to allow the application as prayed
 11. It is so ordered.

DATED, DELIVERED AND SIGNED THIS 13TH DAY OF AUGUST 2024.

GRACE L. NZIOKA

JUDGE

In the presence of:

Mr. Wainaina for the applicants

Ms. Ogutu: court assistant

