



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate Hukhebi Aselm Wasike (Deceased) (Succession Cause  
151 of 2007) [2024] KEHC 16352 (KLR) (20 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16352 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
SUCCESSION CAUSE 151 OF 2007  
REA OUGO, J  
DECEMBER 20, 2024  
IN THE MATTER OF THE ESTATE HUKHEBI ASELM WASIKE (DECEASED)**

**RULING**

1. The deceased in this cause died on February 24, 1999, leaving behind two widows and seven sons, as named in the affidavit in support of the petition for letters of administration. A grant was issued to Geoffrey Okumu Wasike, a son of the deceased on 30.11.2007. This grant was confirmed on 12.2.2009 and a certificate of confirmation of the grant was issued on 12.2.2009 listing all the beneficiaries, the description of the property L.R. No. West Bukusu/ South Mateka/408, and the share of heirs of the deceased's estate. Amongst the heirs is Gabriel J Bukhebi a son of the deceased.
2. On 31.7.2024 the petitioner Geoffrey Okumu Wasike filed an application, a summons for rectification of the certificate of confirmation of grant under sections 74 and 45 of the Law of Succession Act Rules 43 (1) and 73 of the Probate and Administration Rules Cap 160. The applicant seeks the certificate of confirmation of the grant issued on 12.2.2009 be rectified to include the correct set of names of all the said beneficiaries. He seeks the name of one of the beneficiaries Gabriel Juma Bukhebi ( deceased) be substituted with his sons namely; Mark Wafula Juma, Mark Juma and Antony Wanjala Juma ( minor) and his share be registered as a joint ownership and that upon the granting of the said prayer a fresh certificate of confirmation of the grant to issued reflecting the correct style of names of all the beneficiaries as read in their respective identity cards.
3. The applicant filed an affidavit in support of the rectification of the grant. He avers that there is a need to rectify the certificate of confirmation as the same bears an error in the style and names of the beneficiaries which were not written in full and that one of the beneficiaries Gabriel Juma Bukhebi is deceased and there is need for him to be substituted with his immediate family members.



4. I have considered the law as provided in the Law of Succession Act, Cap 160 and prayers sought in the instant application. Rectification of Grants is provided for by section 74 of the Law of Succession Act, Cap 160, Laws of Kenya ( “the Act” ) which provides as follows:-

“Errors in names and descriptions, or in setting forth the time and place of the deceased’s death, or the purpose in a limited grant, may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly.”

Rule 43(1) of the Probate and Administration Rules states as follows:-

“43(1) Where the holder of a grant seeks pursuant to the provisions of section 74 of the Act rectification of an error in the grant as to the names of descriptions of any person or thing or as to the time or place of the death of the deceased or, in the case of a limited grant, the purpose for which the grant was made, he shall apply by summons in Form 110 for such rectification through the registry and in the cause in which the grant was issued.”

5. Rectification is allowed to correct a misdescription of a property or to correct a name that has not been fully or properly described in the Grant. In this case, the applicant seeks to rectify the names of the beneficiaries as indicated in the certificate to reveal their full names. To support this, he has attached copies of their identity cards. This prayer is in order as it seeks to rectify errors in the names as the beneficiaries’ names which were not written in full. Prayer no. 2 is granted as it is in line with the provisions of section 74 of the Act. The grant will be rectified to read; Geoffrey Okumu Wasike, Godfrey Wanjala Wasike, Gabriel Juma Bukheki , Peter Wamalawa Anselmus, Mark Wamalwa Wasike, Antony Barasa Wasike and Morris Okumu Wasike.
6. The 3<sup>rd</sup> prayer that is sought is that the name of his deceased brother Gabriel Juma Bukhebi, be substituted with the names of his three (3) sons. This prayer cannot be granted under section 74 of Rule 43 (1). An amendment to bring in new persons cannot be done in an application to rectify the grant. Rectification of a Grant is only permissible to cure minor errors, mistakes, and irregularities in the Grant. The petitioner has to apply to revoke the original Grant and apply that the same be re-issued with the proposed changes in the mode of distribution of the estate. The consent of all the beneficiaries has to be obtained once again. I therefore decline to prayer 3 of the application dated 31.7.2024. Cost of the application shall be in the cause.

**DATED, SIGNED, AND DELIVERED AT BUNGOMA THIS 20<sup>TH</sup> DAY OF DECEMBER 2024.**

**R.E.OUGO**

**JUDGE**

In the presence:

Geoffrey Okumu Wasike/ Petitioner – Present

Wilkister - C/A.

