



**In re Estate of Lucy Wairimu Kamau (Deceased) (Succession Cause E549 of 2022)  
[2024] KEHC 16273 (KLR) (Family) (19 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16273 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE E549 OF 2022  
EKO OGOLA, J  
DECEMBER 19, 2024  
IN THE MATTER OF THE ESTATE OF LUCY WAIRIMU KAMAU (DECEASED)  
IN THE MATTER OF  
NGOTHU KAMAU ..... ADMINISTRATOR**

**RULING**

1. The application before the court is dated 20<sup>th</sup> May 2024. The applicant prays for the following orders:-
  - a. Spent;
  - b. That this honorable court be pleased to review the Certificate of Confirmation of grant dated 5<sup>th</sup> February 2024 to include Land Title No. Nairobi Block 141/784 in the distribution schedule.
  - c. That this court be pleased to review the certificate of confirmation of grant dated 5<sup>th</sup> February 2024 to remove from the distribution schedule the properties described as shares in Karura Farm Co. Ltd valued at Kshs. 1,500,000, plot No. 279 and Land Reference No. 8479 being subdivision of L.R. 8469/4 located in Nairobi with an approximate area of 0.0345
2. The application was based on the grounds set out therein and the applicant's supporting affidavit.
3. The applicant deposed that he is the sole beneficiary of the deceased estate. He averred that he had recently discovered that Land Title No. Nairobi Block 141/784 was part of the deceased estate. Also, the shares in Karura Farm Co. Ltd, Plot No. 279, and LR No. 8479 (a subdivision of LR 8469/4) were erroneously included as part of the deceased estate.



## Determination

4. I have considered the application, the applicant's affidavit, and annexures. According to Rule 63 of the Probate and Administration Rules, the law is that any party seeking review of orders in probate and succession matters is bound by the provisions of Order 45 of the Civil Procedure Rules. The substantive provisions of Order 45 state as follows:

- “(1) Any person considering himself aggrieved—
- a. by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
  - b. by a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the court which passed the decree or made the order without unreasonable delay.”

5. Order 45 provides three circumstances under which an order for review can be made. To be successful, the applicant must demonstrate to the court that there has been the discovery of a new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed. A party may also successfully apply for review if he can demonstrate to the court that there has been some mistake or error apparent on the face of the record. The third ground for review is worded broadly: ‘an application for review can be made for any other sufficient reason’.

6. From the foregoing, I am satisfied that the applicant has met the threshold for review. The Certificate of Confirmation of grant dated 5<sup>th</sup> February 2024 is hereby reviewed in the following manner:-

- a. Land Title No. Nairobi Block 141/784 is to be included in the list of assets of the estate, and the said land is to be wholly distributed to Ngotho Kamau.
- b. Shares in Karura Farm Co. Ltd, Parcels of land known as Plot No. 279 LR No. 8479 being a subdivision of LR 8469/4 be removed from the list of assets of the estate.
- c. Costs be in the cause.

Orders accordingly.

**DATED AND DELIVERED AT NAIROBI THIS 19<sup>TH</sup> DAY OF DECEMBER 2024**

.....  
**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. Victor Orambi for the Applicant

Gisiele Muthoni Court Assistant

