



**In re Estate of Blasiyo Ochieng Misumba alias Ochieng Musumba (Deceased)
(Succession Cause 21 of 2013) [2023] KEHC 3729 (KLR) (25 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3729 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 21 OF 2013
RE ABURILI, J
APRIL 25, 2023**

**IN THE MATTER OF
JOHN MUSUMBA OCHIENG PETITIONER**

RULING

1. Vide Summons for rectification of grant dated November 19, 2021 the applicant herein seeks that this court rectifies the grant issued on March 26, 2014. I observe that although the schedule of distribution of land parcel No. Kisumu/Bar/1627 provided for the Petitioner to get 2.68Ha and the Respondent herein 0.32Ha, the certificate of confirmation of grant reads 2.06Ha and 0.32Ha respectively.
2. The parties counsel agree that that was an error of typing which this court can correct and I agree that that is an error correctable under Section 74 of the Law of Succession Act and rule 43(1) of the Probate and Administration Rules.
3. I proceed and rectify the certificate of confirmation of grant dated 26th March 2014 and issue a fresh rectified certificate of confirmation of grant showing the distribution of the parcel No. Kisumu/Bar/1627 to read as follows:
John Musumba Ochieng – 2.68Ha
James Kwach Ojwang – 0.32Ha.
4. However, on the prayers for nullification of the subdivision of the subject land parcel Kisumu/Bar/1627 into Kisumu/Bar/2409 measuring 1.4Ha and Kisumu/Bar/2410 measuring 1.6Ha, I find that the issues involved go beyond the jurisdiction of this court as there are allegations of the Petitioner having sold more land to the Respondent after confirmation of the grant was done hence any allegations on how the Respondent got more acreage than that confirmed by the court in these proceedings is a matter to be interrogated by the Environment and Land Court as contemplated in article 162(2) (b) of the Constitution.



5. In addition, as the subdivisions and transfers which have taken place involving third parties was done after confirmation of the grant, any aggrieved party can only lodge a claim before the Environment and Land Court (ELC).
6. For the above reasons, the other prayers in the summons for rectification of grant are incapable of being granted by this court. This court only rectifies the certificate of confirmation of grant as aforesaid and proceeds to close this file with no orders as to costs.
7. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF APRIL, 2023

R. E. ABURILI

JUDGE

