



REPUBLIC OF KENYA



**In re Estate of Patrick Onyango Ochang (Deceased) (Succession Cause  
366 of 2000) [2023] KEHC 3731 (KLR) (24 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3731 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
SUCCESSION CAUSE 366 OF 2000  
RE ABURILI, J  
APRIL 24, 2023**

**IN THE MATTER OF**

**FREDRICK OMOLLO OCHANG ..... 1<sup>ST</sup> APPLICANT  
ROSE ONYANGO ..... 2<sup>ND</sup> APPLICANT  
ELIJAH P ONYANGO ..... 3<sup>RD</sup> APPLICANT**

**RULING**

1. This file was closed on August 23, 2021 following adoption of a Mediation Agreement as the order of the court, which translated into a certificate of confirmation of grant and the Administrators were expected to distribute the estate of the deceased Patrick Onyango Ochang within six (6) months of the confirmed grant and file or render accounts to this court as stipulated in Section 83 of the [Law of Succession Act](#).
2. The Administrators are back into this court with Summons for rectification of grant as confirmed seeking to include another property IR 27975 for Parcel No LR No 6052/3 as part of the estate of the deceased and asserting in deposition that they discovered this property late, after the grant issued to them was confirmed.
3. I have perused the application by way of summons and the affidavit in support and annexures thereof which include certificate of title for Land situate North East of Mohoroni town in Nandi District measuring 174.2 hectares less 2.1 Ha road reserve and the lease expires on September 13, 2018 from April 2, 1975 Registered as Title No IR 27975.
4. I observe that the land in question is leasehold and the acreage is huge. There is no consent from all the beneficiaries of the estate agreeing to the three beneficiaries herein being sole beneficiaries of the said land in the proposed mode of distribution of the estate.
5. I decline to consider the application by way of summons for rectification of grant as the orders sought do not fall within the provisions of Section 76 of the [Law of Succession Act](#) and neither is there written



consent signed by all beneficiaries allowing the proposed mode of distribution. The application is declined and dismissed.

6. The administrators to file an appropriate application duly supported by consents as required by law, noting that failure to include an asset in the confirmed grant is not one of the reasons for rectification of grant. The Administrators to be notified.
7. I so order and further direct that this matter be mentioned on May 25, 2023 to confirm if the administrators have rendered true and accurate accounts to court in respect of the confirmed grant and in default, this court shall not hesitate to revoke the grant as issued and confirmed on February 21, 2022.
8. The administrators are at liberty to file a fresh application, with consent of all the other beneficiaries on the mode of distribution of the new asset.
9. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 24<sup>TH</sup> DAY OF APRIL, 2023**

**R E ABURILI**

**JUDGE**

