



REPUBLIC OF KENYA



**In re Estate of Patrick Reuben Mtange (Deceased) (Succession Cause
18 of 1994) [2023] KEHC 22096 (KLR) (Family) (26 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 22096 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

SUCCESSION CAUSE 18 OF 1994

EKO OGOLA, J

JUNE 26, 2023

IN THE MATTER OF THE ESTATE OF PATRICK REUBEN MTANGE (DECEASED)

RULING

1. The Summons before me is dated February 18, 2020. One of the Administrators, Allan Kisanya Mtange prays for the following:-
 - a. The names Beatrice Kadenyi Mtange and Grace Kagonya Mtange be included in the Certificate of Confirmation of Grant as beneficiaries of the estate of the deceased.
 - b. The said Certificate be rectified to reflect the above.
2. The Certificate of Confirmation of Grant of Letters of Administration Intestate was issued to Oscar Edalia Mtange, Maurice Lugusa Mtange, and Allan Kisanya Mtange on June 26, 2002. At the time of his death, the deceased was survived by five sons and three daughters namely Allan Kisanya Mtange, Beatrice Kadenyi Mtange, Grace Kagonya Mtange, Oscar Edalia Mtange, Maurice Lugusa Mtange, Brian Asava Mtange, and Sylvia Muhonja Mtange. The Applicant stated that the Application for confirmation of grant was made by Oscar Edalia Mtange and Maurice Lugusa Mtange who are his step-brothers and in the Application they omitted the names of Beatrice Kadenyi Mtange and Grace Kagonya Mtange. He averred that it is desirable that the Certificate of Confirmation of Grant reflects the entire list of beneficiaries as set out in the Application of Grant of Letters of Administration.
3. I have perused the record and in the Affidavit in Support of Summons for Confirmation of Grant of Letters of Administration, all the eight beneficiaries were listed. This affidavit was further signed by the three administrators. However, in the Certificate of Confirmation of Grant it is stated that the estate is to be shared between the administrators and other beneficiaries namely: Philip Kamidi Mtange, Brian Asava Mtange, and Sylvia Muhonja Mtange. This is in exclusion of Beatrice Kadenyi Mtange and Grace Kagonya Mtange.



4. Rectification of grants is provided for in section 74 of the [Law of Succession Act](#) and Rule 43(1) of the [Probate and Administration Rules](#). Section 74 provides as follows:

“SUBPARA 74.

Errors may be rectified by court:

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.”

5. Rule 43(1) provides as follows:

“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 or descriptions of any person or thing or as to the time or place of 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 made.”

6. From the language of section 74 of the [Law of Succession Act](#) and Rule 43(1) of the [Probate and Administration Rules](#), the scope of rectification of grants of representation is limited to 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. The court may rectify errors in names and descriptions, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly.

7. In this instant Summons for Rectification of Confirmed Grant, the Administrator has demonstrated the error of excluding the two beneficiaries from the Confirmed Grant. The Summons are not opposed and having perused the record of the Court, the annexures to the Summons, and having considered the applicable law, I allow the Summon as prayed.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 26TH DAY OF JUNE 2023

.....

E.K. OGOLA

JUDGE

In the presence of:

N/A for the Administrator

Gisiele Muthoni Court Assistant.

