



**In re Estate of Francis M’ikiara alias Kiara Kimotho alias M’ Ikiara Kimotho (Deceased)
(Succession Cause 286 of 2011) [2023] KEHC 20881 (KLR) (27 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20881 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 286 OF 2011
TW CHERERE, J
JULY 27, 2023**

**IN THE MATTER OF THE ESTATE OF FRANCIS M’IKIARA ALIAS
KIARA KIMOTHO ALIAS M’ IKIARA KIMOTHO (DECEASED)**

BETWEEN

TERETHINA NCHENGE M’IKIARA ADMINISTRATOR

AND

ANICIA KAJIJO M’IKIARA OBJECTOR

RULING

1. By notice of motion dated July 3, 2023, Applicant seeks an order of review of these court’s orders dated April 20, 2023. The motion is supported by an affidavit sworn by the Applicant on June 30, 2023 to which is annexed this court’s ruling dated April 20, 2023 and Certificate of Confirmation of Grant dated August 12, 2015.
2. Respondent opposed the application by her replying affidavit sworn on July 14, 2023 in which she deposed that there was no ground for review of the orders issued in her favour on April 20, 2023.

Analysis and determination

3. I have considered the application in the light of the affidavits on record vis a vis the court’s order dated April 20, 2023.
4. The law governing issues of review orders is anchored under section 80 of the *Civil procure Act* and order 45 (1) of the *Civil Procedure Rules*. Under order 45(1) of the Rules, a party seeking review must prove that the application is filed without unreasonable delay; discovery of new or 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. This position was emphasized in the case of *In re Estate of Maero Tindi (Deceased)* [2018] eKLR.

5. A reading of the order dated April 20, 2023 demonstrates that it has an error in that it does not conform with the orders in the certificate of confirmation of grant dated August 12, 2015. The error is apparent on the face of the record and this court is obligated to correct it by an order of review.
6. From the foregoing, it is hereby ordered:

Order 3 of the ruling dated April 20, 2023 is set aside and substituted with the following order:

1. This Honourable Court be and is hereby pleased to issue an order directing the Land Registrar Imenti North to dispense with the production of copies of ID Card, pin certificate and passport size photographs of Terethina Nchengi M'ikiara when facilitating transfer of the estate in terms of the Certificate of Confirmation dated of 12th August, 2015.
2. Mention on October 26, 2023 to confirm distribution and/or further orders

DATED AT MERU THIS 27TH DAY OF JULY 2023

WAMAE. T. W. CHERERE

JUDGE

