



**In re Estate of Protasio Njeru (Deceased) (Succession Cause
23 of 2023) [2023] KEHC 26208 (KLR) (30 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26208 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 23 OF 2023**

TW CHERERE, J

NOVEMBER 30, 2023

IN THE MATTER OF THE ESTATE OF PROTASIO NJERU (DECEASED)

AND

**IN THE MATTER OF SUMMONS FOR CONFIRMATION OF GRANT
OF ADMINISTRATION TESTATE (WITH WILL ANNEXED).**

IN THE MATTER OF

SIGISMOND K. NJERU 1ST PETITIONER

HENRY PAUL IRERI NJERU 2ND PETITIONER

CHRISTINA WARUE NJERU 3RD PETITIONER

RULING

Brief Facts

1. The grant in this matter was confirmed on 23rd November, 2023. Petitioners by summons for rectification dated and filed on 27th November, 2023 by seek orders of rectification on the grounds That:

(1) The following properties were omitted as an oversight

i. Nyambene/Kirindine A/2073

ii. Nyambene/Kirindine A/2597

iii. Nyambene/Kirindine A/3644

iv. Nyambene/Kirindine A/3803

v. Tigania East/Ankamia/4794,

vi. Tigania East/Ankamia/5975,



- vii. Tigania, East/Ankamia/8296,
- viii. Tigania East/Ankamia/5091,
- ix. Tigania East/Ankamia/5477
- x. Tigania East/Ankamia/9532,
- xi. Tigania East/Ankamia/5464,
- xii. Tigania East/Ankamia/5474,
- xiii. Tigania East/Ankamia/5475,
- xiv. Tigania East/Ankamia/5476,
- xv. Kiegoi/Kinyanka/199
- xvi. Kiegoi/Kinyanka/544,
- xvii. Kiegoi/Kinyanka/649,
- xviii. Kiegoi/Kinyanka/690,
- xix. Kiegoi/Kinyanka/701
- xx. Kiegoi/Kinyanka/723,
- xxi. Kiegoi/Kinyanka/1080
- xxii. Kiegoi/Kinyanka/1189,
- xxiii. Kiegoi/Kinyanka/1585
- xxiv. Kiegoi/Kinyanka/1586

- (2) The Petitioners have discovered that LR. Ntima/Igoki/4330 which was included among deceased's assets is not registered in his name.
2. The summons is supported by a joint affidavit sworn by the Petitioners Sigismund.K. Njeru, Christina Warue Njeru and Henry Paul Njeru on 27th November, 2023. Annexed to the affidavit is a consent to the rectification signed by the Petitioners and the other two adult beneficiaries Lawrence Christopher Njeru and Antony Murithi Njeru on 27th November, 2023.
3. Rectification of grants is provided for in section 74 of the *Law of Succession Act*, Cap 160, Laws of Kenya and Rule 43(1) of the *Probate and Administration Rules*. Section 74 provides as follows:
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.”
- 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.”

4. 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. I may add that such other minor errors in that genre could also be rectified. (See [In the matter of the estate of Geoffrey Kinuthia Nyamwinda \(deceased\)](#) [2013] eKLR and [In the matter of the estate of Hasalon Mwangi Kahero](#) [2013] eKLR.
5. In compliance with a court order dated 27th November, 2023, Petitioners filed search certificates for LR. Ntima/Igoki/4330 which is in the name of Peter Maina Ngure and for assets in (1) (i) to (xxvi) above all of which are in the name of the deceased Protasio Njeru and I therefore find that the rectification is merited in the circumstances.

Orders

6. Accordingly, for the reasons set out above, it is hereby ordered:
 1. Ntima/Igoki/4330 shall be deleted from the list of deceased’s assets
 2. The grant shall be rectified to include the following assets:
 - i. Nyambene/Kirindine A/2073
 - ii. Nyambene/Kirindine A/2597
 - iii. Nyambene/Kirindine A/3644
 - iv. Nyambene/Kirindine A/3803
 - v. Tigania East/Ankamia/4794,
 - vi. Tigania East/Ankamia/5975,
 - vii. Tigania, East/Ankamia/8296,
 - viii. Tigania East/Ankamia/5091,
 - ix. Tigania East/Ankamia/5477
 - x. Tigania East/Ankamia/9532,
 - xi. Tigania East/Ankamia/5464,
 - xii. Tigania East/Ankamia/5474,
 - xiii. Tigania East/Ankamia/5475,
 - xiv. Tigania East/Ankamia/5476,
 - xv. Kiegoi/Kinyanka/199
 - xvi. Kiegoi/Kinyanka/544,
 - xvii. Kiegoi/Kinyanka/649,
 - xviii. Kiegoi/Kinyanka/690,
 - xix. Kiegoi/Kinyanka/701



- xx. Kiegoi/Kinyanka/723,
 - xxi. Kiegoi/Kinyanka/1080
 - xxii. Kiegoi/Kinyanka/1189,
 - xxiii. Kiegoi/Kinyanka/1585
 - xxiv. Kiegoi/Kinyanka/1586
3. The assets in order (2) (i) to (xxiv) above shall be registered in the names of Sigismund.K. Njeru, Christina Warue Njeru and Henry Paul Njeru to hold in trust for all beneficiaries of Njeru Industries Ltd.
 4. The assets in order (2) (i) to (vii) above shall be charged to Belgian Development Cooperation for purposes of preserving the estate
 5. The assets in order (2) (viii) to (xiv) above shall be charged to Family Bank Ltd for purposes of preserving the estate
 6. The assets in order (2) (xv) to (xxiv) above shall be charged to Oiko Credit for purposes of preserving the estate
 7. Grant of Probate shall issue as ordered on 23rd November, 2023 and as rectified by these orders.
 8. Mention on 29th February, 2024 to confirm compliance with these orders
 9. Costs shall be in the cause

Schedule A (Amended)

a. Immovable Assets

1. Ntima/Igoki/1880
2. Ntima/Igoki/4331
3. Ntima/Igoki/4007
4. Ntima/Igoki/2050
5. Ntima/Igoki/2134
6. Ntima/Igoki/2136
7. Ntima/Igoki/779
8. Ntima/Igoki/2043
9. Ntima/Igoki/2135
10. Kiegoi/Kinyanka /544
11. Kiegoi/Kinyanka/649
12. Kiegoi/Kinyanka/723
13. Kiegoi/Kinyanka/1189
14. Kiegoi/Kinyanka/690



15. Kiegoi/Kinyanka/1586
16. Kiegoi/Kinyanka/199
17. Kiegoi/Kinyanka/1080
18. Kiegoi/Kinyanka/1585
19. Kiegoi/Kinyanka/701
20. Nyambene/Kirindine A/4598
21. Nyambene/Kirindine A/2799
22. Nyambene/Kirindine A/1146
23. Nyambene/Kirindine A/74
24. Nyambene/Kirindine A/118
25. Nyambene/Kirindine A/169
26. Nyambene/Kirindine A/141
27. Nyambene/Kirindine A/88
28. Nyambene/Kirindine A/2073
29. Nyambene/Kirindine A/2597
30. Nyambene/Kirindine A/3644
31. Nyambene/Kirindine A/3803
32. Nyaki/Giaki/60
33. Nyaki/Giaki/1148
34. Nyaki/Giaki/1635
35. Nyaki/Giaki/1864
36. Nyaki/Giaki/2753
37. Nyaki/Thuura/2408
38. Nyambene/Kirindine A/2073
39. Nyambene/Kirindine A/2597
40. Nyambene/Kirindine A/3644
41. Nyambene/Kirindine A/3803
42. Tigania East/Ankamia/4794
43. Tigania East/Ankamia/5975
44. Tigania, East/Ankamia/8296
45. Tigania East/Ankamia/5091



46. Tigania East/Ankamia/5477
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56. Kiegoi/Kinyanka/701
57. Kiegoi/Kinyanka/723
58. Kiegoi/Kinyanka/1080
59. Kiegoi/Kinyanka/1189
60. Kiegoi/Kinyanka/1585
61. Kiegoi/Kinyanka/1586

Schedule B

Liabilities

1. I & M Bank Limited - USD 9,500,000/-
2. Incofin Inclusive Finance Fund Sa, Sicav-Raif - Agri-Finance Liquidity - USD 2,200,000/-
3. Oikocredit, Ecumenical Development Cooperative Society
-Usd 3,000,000/-
4. Family Bank Ltd - KES. 21,800,757/-
5. Solution Sacco Society Ltd – KES. 3,965,896/-
6. Chai Sacco Society Ltd - KES. 2,560,150/
7. NCBA Bank Kenya Plc - KES. 8,265,438/-
8. Co-Operative Bank (K) Ltd - KES. 1,146,186/-
9. Equity Bank Kenya Ltd - KES. 150,000,000/-
10. Salaries - KES. 7,200,000/
11. Farmers Payment - KES. 1,209,619/-
12. Power and Lighting Co. Ltd - KES. 3,506,015/-



13. Student Fees for Dependents - KES. 779,936/-

14. Firewood Suppliers - KES. 2,889,193/-

15. Medical Operation Bill - KES. 5,000,000/-

(Total estimated value KES. 2,442,723,190/- (Two billion, four hundred forty-two million, seven hundred twenty-three thousand, one hundred ninety.)

DATED AT MERU 30TH DAY OF NOVEMBER 2023

WAMAE. T. W. CHERERE

JUDGE

Appearances

For Applicants –Mr. Anampiu for Ayub K. Anampiu & Company Advocates

