



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Muyuko Ole Ngidut (Deceased) (Succession Cause  
27 of 2019) [2023] KEHC 25865 (KLR) (27 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 25865 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAROK  
SUCCESSION CAUSE 27 OF 2019  
F GIKONYO, J  
NOVEMBER 27, 2023  
IN THE MATTER OF THE ESTATE OF MUYUKO OLE NGIDUT (DECEASED)  
  
IN THE MATTER OF  
TAMPEI OLE NGELDUT ..... PETITIONER**

**RULING**

1. The Summons for Rectification of Grant dated June 22, 2023, seeks for: -
  1. Rectification of the petition for grant of letters of administration and of the grant of letters of administration issued on the 24<sup>th</sup> May 2023, to reflect -P/no NAROK Cis/Mara-Olchoro/1682 as the only asset of the deceased in place of Narok Cis/ Mara-Olkinyei/1682.
  2. That costs be in the cause.
2. The application is premised upon the grounds set out in the application and the Affidavit of Tampei Ole Ngeldut.
3. The petitioner/applicant averred that there was a typographical error during the preparation of the petition herein, whereby it was indicated that P/no Narok Cis/Mara-Olkinyei /1682 is the only asset of the deceased, instead of Narok Cis/Mara-Olchoro/1682 indicated in the certificate of official search filed therewith. It is necessary to rectify the petition and indicate the true land reference and consequently, the confirmed grant. According to him, the grant cannot be registered in the relevant lands office as it is. Unless the said rectifications are made the said grant will never serve the purposes intended. It is necessary that the rectifications be made to put this matter to rest.

**Analysis And Determination**

4. The court has considered the pleadings that were filed in court and the application for rectification as well as the affidavit in support. The question is; whether rectification of the petition and the grant should be ordered by the court.



## Rectification of Grant

5. 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](#).
6. According to Section 74 of the [Law of Succession Act](#):

‘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.’
7. Rule 43(1) of the [Probate and Administration Rules](#) provides, *inter alia*, the procedure:

‘...by summons in Form 110 for such rectification through the registry and in the cause in which the grant was made.’
8. Under section 74 of the [Law of Succession Act](#) and Rule 43(1) of the [Probate and Administration Rules](#), the court has the power to rectify the description of the estate property. The official search indicated the estate property to be Narok Cis/Mara-Olchoro/1682. But, it appears an error occurred in preparing the petition and erroneously indicated the estate property to be P/no Narok Cis/Mara-Olkinyei /1682 is. This is the only asset of the deceased and the mis-description of the estate property is an honest error. Rectification sought will therefore, provide the proper description of and reflect the correct estate property; and bring closure to the administration of the estate. The rectification does not introduce anything extraneous and does not alter the substance of the judgments.
9. In the upshot, prayers 1 and 2 of the application are granted in the interest of justice and the parties concerned. The petition and the grant shall be accordingly rectified.
10. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION THIS 27<sup>TH</sup> DAY OF NOVEMBER, 2023.**

.....

**HON. F. GIKONYO M.**

**JUDGE**

**In the presence of:-**

- 1. Mr. Muraguri – C/A**
- 2. Petitioner**

