



**In re Estate of M’ikiamba Karitho (Deceased) (Succession Cause
122 of 2004) [2023] KEHC 27043 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 27043 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 122 OF 2004
TW CHERERE, J
DECEMBER 20, 2023**

BETWEEN

JOSEPH MWAMBI M’IKIAMBA PETITIONER

AND

HENRY M’MITHEA M’IKIAMBA APPLICANT

RULING

1. By summons for revocation dated 01st August, 2022, Henry M’Mithea M’Ikiamba (Applicant) sought orders of revocation the certificate of confirmation of grant rectified on 01st November, 2021 on grounds among others that a stranger, one Charles Mbaabu Karicha was included in the list of beneficiaries but failed to prove that allegation.
2. The summons dated 25th September, 2023 by the same Henry M’Mithea M’Ikiamba (Applicant) seeks orders of rectification of the certificate of confirmation of grant on similar grounds that a stranger, one Charles Mbaabu Karicha, who bought land from the Respondent.
3. By his replying affidavit sworn on 14th November, 2023, Respondent reiterated that it was the Applicant that introduced Charles Mbaabu Karicha into this cause and cannot therefore be heard to claim that he is a stranger.
4. By his further affidavit sworn on 07th December, 2023, Applicant reiterates that the inclusion of Charles Mbaabu Karicha was erroneous as he is not a beneficiary but a purchaser.
5. I have considered the summons in the light of the affidavits on record. I notice that the Respondent does not deny that Charles Mbaabu Karicha is not a beneficiary but that he purchased land from him which is my considered view is a matter that this court cannot casually dismiss considering that land is an emotive issue.



6. I notice that the said Charles Mbaabu Karicha is not a party to this application and it would therefore not be in the interest of justice to condemn him unheard.
7. Consequently, it is hereby ordered as follows:
 1. Summons dated 25th September, 2023 shall be served on Charles Mbaabu Karicha
 2. The summons dated 25th September, 2023 shall be determined by way of *viva voce* evidence
 3. Parties are directed to file and serve respective responses/affidavits/witness statements
 4. Mention on 04th March, 2024 to confirm compliance and for directions as to disposal of the application

DATED AT MERU THIS 20TH DAY OF DECEMBER 2023

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant - Kinoti/Munene

For Applicant - Ms. Asuma for Mutembei & Kimathi Advocates

For Respondent - Mr. Ondieki for J.O.Ondieki & Co. Advocates

