



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Gian Mario Gravetto (Deceased) (Succession Cause
7 of 2020) [2022] KEHC 10359 (KLR) (24 May 2022) (Ruling)**

Neutral citation: [2022] KEHC 10359 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
SUCCESSION CAUSE 7 OF 2020
JN ONYIEGO, J
MAY 24, 2022
IN THE MATTER OF THE ESTATE OF GIAN MARIO GRAVETTO
(DECEASED)**

**IN THE MATTER OF
SALEEM GHALIA LAWFUL ATTORNEY OF MARIO CRAVETTO .. APPLICANT**

RULING

1. The deceased in these proceedings died on 29th May, 2008 while domiciled in Cervere Italy. Administration of inheritance number 1volume 668 equivalent to a grant in Kenya was issued by the ministry of finance, Bra Italy and duly registered with the revenue authority in Italy.
2. Subsequently, by a petition dated 22nd January, 2020 Saleem Ghalia the lawful attorney of Mario Crevetto the applicant herein sought resealing of the grant in her favour being the sole beneficiary of her late father's estate situated in Diani/Kwale plus shares in various companies. Consequently, the court issued a sealed grant on 10th November, 2020.
3. Later, the applicant moved the court vide a summons dated 28th September 2021 seeking confirmation of the sealed grant so as to enable her inherit her late father's estate in Kenya. Having realized that the sealed grant was improperly issued before the requisite conditions could be met, the court on its own motion cancelled the sealed grant on 17th December, 2021 and advised for the estate to be gazetted ; certificate of the Principal Registrar be obtained and original copy of the grant issued in Italy be attached.
4. Consequently, the applicant moved the court through a notice of motion dated 21st February 2022 seeking to review the orders made on 17th December, 2021 on grounds that the conditions set by the court had been met.The application is supported by an affidavit sworn by Saleem Ghalia the lawful attorney of the applicant attaching the gazette notice of 2nd October, 2020 (s1) and Principal Registrar's certificate (S3)



5. I have considered the application herein, affidavit in support and oral submissions by the applicant's counsel. This court has been asked to review its orders of 17th December, 2021 pursuant to Orders 45 rule 1 and 51 rule 1 of the *Civil Procedure Rules*.
6. Indeed, under the aforesaid provisions, this court has powers to review its orders subject to proof that there is discovery of important matter or evidence by the applicant which was not within her knowledge after the exercise of due diligence or that there was a mistake or apparent error on the face of the record.
7. From the record, it appears that the estate was gazetted on 2nd October, 2020 but by mistake the notice was not filed in the court file. The same thing happened to the principal Registrar's certificate which also appears to have been issued on 10th September, 2020.
8. With this discovery, it is apparent that the omission was by mistake hence good ground to review the orders of 17th December, 2021 thereby reinstating the cancelled sealed grant. A fresh sealed grant shall accordingly issue and the application dated 28th September 2021 seeking confirmation of the sealed grant allowed and the estate to be distributed to the applicant as the sole beneficiary.

DATED SIGNED AND DELIVERED VIRTUALLY AT MOMBASA THIS 24TH DAY OF MAY 2022

J. N. ONYIEGO

JUDGE

