



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of M'noti M'rinchuni alias Stanley M'noti (Deceased) (Succession Cause 305 of 2002) [2022] KEHC 14510 (KLR) (27 October 2022) (Ruling)**

Neutral citation: [2022] KEHC 14510 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
SUCCESSION CAUSE 305 OF 2002  
TW CHERERE, J  
OCTOBER 27, 2022**

**IN THE MATTER OF**

**JOEL KITHINJI M'INOTI ..... 1<sup>ST</sup> APPLICANT**

**FRANCIS GIKUNDI M'INOTI ..... 2<sup>ND</sup> APPLICANT**

**RULING**

1. I have considered the summons for rectification dated March 15, 2022 in the light of the supporting affidavit.
2. 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.”
3. 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.

4. Other major or substantial issues should be addressed through application for review of judgment or appeal. See *In the matter of the estate of Geoffrey Kinuthia Nyamwinga (deceased)* [2013] eKLR where the court stated;

The law on rectification or alteration of grants is Section 74 of the *Law of Succession Act* and Rule 43 of the *Probate and Administration Rules*..... What these provisions mean is that errors may be rectified by the court where they relate to names or descriptions, or setting out of the time or place of the deceased's death. The effect is that the power to order rectification is limited to those situations, and therefore the power given to the court by these provisions is not general.....

5. *In the matter of the estate of Hasalon Mwangi Kabero* [2013] eKLR, the court stated:

“when dealing with an application for rectification of grant to add a full name of person who was omitted. An error is essentially a mistake. For the purposes of Section 74 and Rule 43, it must relate to a name or description or time and place of the deceased death, or the purpose of a limited grant. Is an omission of a name or in the description of a thing an error” It would be an error if say a word in the full name of a person is omitted or a word or number or figure in a description is omitted. But where the full name of a person or a full description of a thing or property is omitted, it would be stretching the meaning of the word “error” too far to say that that would amount to the error or mistake envisaged in Section 74 and Rule 43.

6. In this case the Applicants seek to redistribute various assets. The scope of rectification of grant under section 74 of the *Law of Succession Act* is quite limited and cannot handle such substantial issues which may require further evidence or visit to the *locus in quo* or interrogation (See *In re Estate of Henry Mwithimbu Karigu (Deceased)* [2020] eKLR).
7. Perhaps, a proper application for review of the grant might serve the purpose intended by the Applicants.
8. For that reason, summons for rectification dated March 15, 2022 is unmerited and it is dismissed.

**DATED AT MERU THIS 27<sup>TH</sup> DAY OF OCTOBER, 2022**

**WAMAE. T. W. CHERERE**

**JUDGE**

**Appearances**

**Court Assistant - Morris Kinoti**

**For Applicants - Mr. Wambua for Maitai Rimita & Co Advocates**

