



REPUBLIC OF KENYA



In re Estate of M'Thuranira Karauri (Deceased) (Succession Cause 2 of 2018) [2022] KEHC 16659 (KLR) (21 December 2022) (Ruling)

Neutral citation: [2022] KEHC 16659 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 2 OF 2018**

TW CHERERE, J

DECEMBER 21, 2022

**IN THE MATTER OF THE ESTATE OF M'THURANIRA
KARAURI ALIAS THURANIRA KARAURI (DECEASED)**

AND

IN AN APPLICATION FOR RECTIFICATION OF THE GRANT

IN THE MATTER OF

JOEL KITHINJI M'INOTI 1ST APPLICANT

FRANCIS GIKUNDI M'INOTI 2ND APPLICANT

RULING

1. I have considered the summons for rectification dated October 11, 2022 in the light of the supporting affidavit and further affidavit sworn on October 11, 2022 and December 9, 2022 respectively and annexures thereto.
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 correct errors concerning description of some assets which I find is merited in terms of section 74 of the [Law of Succession Act](#), Cap 160 and rule 43(1) of the [Probate and Administration Rules](#) and it is thus allowed.

DATED AT MERU THIS 21ST DAY OF DECEMBER 2022

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant - Morris Kinoti

For Applicant - Mr. Riungu for A.G. Riungu & Co Advocates

