

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

PROBATE AND ADMINISTRATION CAUSE NO. 1522 OF 1992

IN THE ESTATE OF ROSE MWERU (DECEASED)

RULING

This is a short ruling in respect of Notice of Motion dated 31st March 2021 seeking to have the file in this matter reconstructed and that the pleadings and documents annexed to the Affidavit in support of the Notice of Motion be accepted as copies of the original file and costs. The application is supported by the grounds found on the face of the application and in the supporting affidavit sworn by Mr. Gikandi Ngibuini counsel for the Petitioner/Applicant.

The grounds in support are that the Petitioner filed summons for rectification of the grant on 24th February 2021 but their efforts to retrieve the file in this matter have been fruitless; that they wrote letters to the Deputy Registrar of the Family Division to have the file availed without response; that the reason for seeking the rectification of the grant is to enable the Petitioner to include in the list of properties forming the estate of the deceased a parcel of land that had been inadvertently omitted, being Land Reference No. Nanyuki/West Timau Block 1/12, to enable subdivision.

The Notice of Motion is brought under certificate of urgency. I have considered the application and the attached documents including the pleadings. I have also considered brief submissions by Mr. Mwanzia holding brief for Mr. Gikandi in virtual proceedings. I have noted that this file was listed today before this court. Against the file number in today's cause list was writings by hand indicating that the file is missing. A skeleton file was prepared and this Notice of Motion and attachments was placed in the file. The application is uncontested. In the interest of justice I hereby allow the Notice of Motion dated 31st March 2021 as prayed. I direct that this file be reconstructed. However, I note that it is necessary to provide better and clear copies of the pleadings and attachments. The documents already provided as attachments to this Notice of Motion are not legible. Counsel is directed to provide better copies to enable the Registry Family Division reconstruct this file. After reconstruction, parties shall take a date in the Registry. Orders to issue accordingly.

DATED, SIGNED AND DELIVERED THIS 26TH MAY 2021.

S. N. MUTUKU

JUDGE