



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISUMU

SUCCESSION CAUSE NO. 1076 OF 2015

IN THE MATTER OF THE ESTATE OF THE LATE JOHN ALFRED MISUMBA (DECEASED)

AND

IN THE MATTER OF AN APPLICATION BY ALLAN OCHIENG MISUMBA FOR

AMENDMENT OF INVENTORY OF ASSETS AS CAPTURED ON FORM P & A 5

RULING

The application before me is for the rectification of the Grant.

1. It has transpired that one property which belonged to the deceased had been omitted from the list of the properties constituting the Estate of the late **JOHN ALFRED MISUMBA**.
2. The property in issue is **L.R. NO. KISUMU/BORDER/1247**.
3. The Applicant, **ALLAN JASPER OCHIENG MISUMBA**, swore an affidavit explaining that the said property had been sold by the deceased during his lifetime. The person who purchased it was said to be **GEORGE ATITO FUAYE**.
4. Having perused the Sale Agreement dated 10th August 2000, I am satisfied that the property was sold to George Atito Fuaye in 2000.
5. As the Applicant has stated, on oath, it is because that property had been sold prior to the demise of John Alfred Misumba, that it was not put on the list of the assets comprising the estate.
6. **EUNICE BENTA AKINYI**, who is the only surviving beneficiary to the estate, has sworn an affidavit confirming the facts set out by the Applicant.
7. She said that there had been an assumption that the property in issue had been transferred to George Atito Fuaye.
8. As it is now clear that the deceased had not effected the transfer of the title; and because the beneficiaries are in agreement about the need to complete the said transfer, it is now ordered that;

*(i) **L.R. NO. KISUMU/BORDER/1247** was one of the assets belonging to the deceased, and it is therefore to be incorporated to the list of the assets.*

*(ii) **The Certificate of Confirmation of Grant** is rectified, to include the said property; and it is further ordered that the property be transferred to **GEORGE ATITO FUAYE**.*

*(iii) **I make no order as to costs of the application.***

DATED, SIGNED AND DELIVERED AT KISUMU THIS 20TH DAY OF DECEMBER 2021

FRED A. OCHIENG

JUDGE