



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

SUCCESSION CAUSE NO. 309 OF 2006

**IN THE MATTER OF THE ESTATE OF WAWERU WAHINYA KUIBIGA alias WAWERU WAHINYA KUIBITA
(DECEASED)**

RULING

1. The Administrators of the Estate of the Deceased herein WAWERU WAHINYA KUIBIGA alias WAWERU WAHINYA KUIBITA (Deceased) filed the summons for Rectification of grant dated 1.4.2019 seeking for Orders that the Confirmed grant of Letters of Administration dated 8.12.2018 be amended to the extent that each of the three houses of the Deceased shall inherit a portion of 0.056 Ha of the Property DAGORETTI/RIRUTA/1303 (instead of 0.07 ha) as indicated in the Certificate of Confirmation dated 19.7.2011 as amended on 17.6.2016 and further amended on 8.11.2018.

2. The Application is support by the Affidavit of the four Administrators who are as follows:

(i) BEATRICE WANJIKU NGUHI

(ii) ROBERT THIONGO KARIUKI

(iii) FRANCIS MWANIKI WAWERU

(iv) ANDREW PHORO WAWERU

3. The reason for seeking the rectification is that the licensed surveyor JOHN D' OBEL practicing under the Company name GEOMATIC SERVICES visited the said Parcel of land and found that the acreage available for distribution was 0.168 Ha and not 0.212 Ha as stated in the title deed as there is provision for a road measuring 0.042 Ha.

4. The area available for each house is therefore 0.056 Ha and not 0.07Ha and the Administrators are seeking the rectification to reflect the actual area in respect of DAGORETTI/RIRUTA/1303.

5. One of the beneficiaries Ephantus Ndungu Waweru opposed the Summons for rectification and filed an objection to the Summons for rectification supported by an Affidavit dated 27.5.2019 raising issues which are not related to grounds for the summons for rectification dated 1.4.2019.

6. A perusal of this case reveals that the said EPHANTUS NDUNGU WAWERU has been filing Applications which have protracted this case for several years.

7. The issue before this Court is amending the acreage for distribution to each of the houses following the visit by the Surveyor to the parcel which reveals that the acreage available is less than indicated on the title document.

8. There is no indication that Ephantus Ndungu Waweru is going to be disinherited as he alleges and I find that his objection is not merited and I accordingly dismiss the same and direct that the summons for rectification dated 1.4.2019 be and is hereby allowed.

9. The further amended Certificate of Confirmation to issue accordingly.

10. This being a family matter, each party to bear its own costs of the Summons dated 1.4.2019.

DELIVERED, SIGNED AND DATED IN OPEN COURT THIS 31ST

DAY OF JANUARY, 2020

ASENATH ONGERI

JUDGE OF THE HIGH COURT OF KENYA, NAIROBI.