



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

HIGH COURT SUCCESSION CAUSE NO. 163 OF 1998

IN THE MATTER OF THE ESTATE OF JOSEPH MAIGWA alias MAIGWA S/O MAINA

JOSEPH MAIGWA MAINA.....APPLICANT

RULING

The application before me is the summons general dated 7th July 2017.

It was scheduled for Ruling on the 20th December 2017 but the file was inadvertently returned to the registry instead of being placed before me for writing of the ruling. For that reason, I apologise to the parties.

The application is brought under rules 63 and 49 of the Probate and Administration rules.

It seeks orders that **John Maigwa Maina** and **Simon Peter Maigwa Machira** be allowed to replace **Zakaria Maina Maigwa** and **Wachira Maigwa** in the list of heirs. Secondly that the names of two beneficiaries erroneously typed as Zakaria Maina Maigwa and Machira Maigwa be corrected to read ZAWERIO MAINA MAIGUA and MACHIRA MAIGUA respectively. This is expected to assist in the completion of the estate of the deceased.

The application is supported by the affidavit of Joseph Maigwa Maina, the petitioner/applicant sworn on 7th July 2017 and the annexures there to being – consent by the other beneficiaries, the certificates of death for Machira Maigwa and Zawerio Maina Maigwa, letters from the chief Chinga North West Location. The letter with respect to **Machira Maigwa** shows that the deceased was survived by Simon Peter Maigwa Machira, Joseph Murage Machira and Samuel Machira Thiong’o. It is proposed that **Simon Peter Maigwa** be allowed to replace him in the certificate of grant.

With respect to Zawerio Maina Maigwa, it is indicated he left behind the following, John Maigwa Maina, Joseph Machira Maina, Stephen Thuku Maina, Nehemiah Mwangi Mugo, John Maigwa Mugo and Zawerio Maina Mugo the latter three being grandsons.

I have considered the application and the supporting affidavit.

All the parties are present and consent to the application. I allow the application in the interests of justice in the following terms:

1. The name **Zakaria Maina Maigwa** be corrected to read **Zawerio Maina Maigwa**
2. The name **Wachira Maigwa** be corrected to read **Machira Maigwa**.
3. Joseph Maigwa Maina to replace Zawerio Maina Maigwa and to hold the parcel of land for himself and on behalf of the others as listed to be shared 4 equal shares, and the 4th share into three equal shares as follows.
 - a. Joseph Maigwa Maina
 - b. Joseph Machira Maina,
 - c. Stephen Thuku
 - d. i. Nehemiah Mwangi Mugo
 - ii. John Maigwa Mugo

iii. Zawerio Maina Mugo

Simon Peter Maigua Machira to replace Machira Maigua and to hold the parcel of land on his and on behalf of the other beneficiaries listed hereunder to be shared equally;

a. Simon Peter Maigua Machira

b. Joseph Murage Machira

c. Daniel Machira Thiong'o

Orders accordingly. No orders as to costs.

Dated, delivered and signed this 26th Day of January 2018 at Nyeri

Teresia M Matheka

Judge

Court Assistant Harriet

All the beneficiaries as per the signed list.