

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

SUCCESSION CAUSE NO. 90 OF 2000

IN THE MATTER OF THE ESTATE OF NJOROGI NJUGUNA (DECEASED)

RULING

1. Vide summons dated 20th December, 2017 seeking rectification of grant issued on 12th April, 2000, confirmed on 14th February, 2001 and rectified on 22nd March, 2016, the applicants sought orders correcting the name of the deceased reflected as Njoroge Njuguna in the said grant to read Njoroge Njuguna alias Josephat Njoroge Njuguna with the inclusion of the name Josephat being his Christian name which name appears in some of his assets.

2. Secondly, the applicants sought to correct the share holding of the deceased with regard to property L.R No. Lari/Bathi/T.203/23 which was jointly held with four other beneficiaries in equal share. According to the confirmed grant, the entire parcel was given to the administrator to hold in trust for her children thus dispossessing the other four co- owners. The applicants therefore sought amendment of the grant to reflect a 1/5th of the said land to be registered in her name for her benefit and that of her children.

3. I have considered the application herein which is filed pursuant to Sections 74 and 47 of the Law of Succession Act Cap 160 Laws of Kenya, grounds on the face of it and affidavit in support deposed jointly by the applicants herein Michael Njoroge and Lucy Njoroge. I have also perused a copy of a title deed in respect of the said land which reflects the deceased as Josephat Njoroge Njuguna with four other joint owners. There is no doubt that the deceased Njoroge Njuguna and Josephat Njoroge Njuguna are one and the same person hence prayer two is allowed as prayed. On the same vien, it is apparent from the copy of title deed attached that the land in question is owned by five joint owners the deceased herein being one of them. His beneficial interest and therefore entitlement is a 1/5th of it and not the entire portion (land). For those reasons, it is prudent that the share holding of a 1/5th by the deceased be reflected in the grant instead of the entire portion and the same to be held in trust by the 1st administratrix for her benefit and that of her children. To that extent, prayer 3 is also allowed as prayed with no order as to costs.

SIGNED, DATED AND DELIVERED AT NAIROBI ON THIS 13TH DAY OF MARCH, 2018.

J.N. ONYIEGO (JUDGE)

In the presence of

.....Counsel for Applicant

.....Court Assistant