

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 439 OF 2013

IN THE MATTER OF THE ESTATE OF NAOMI WAITHERA NJIRIRI ALIAS NAOMI WAITHERA NGACHA ALIAS NAOMI WITHIRA NJIRIRI ALIAS WAITHIRA NGUGI (DECEASED)

RULING

1. A grant of representation in respect of the estate of Naomi Waithera Njiriri alias Waithera Ngacha alias Naomi Waithira Njiriri alias Waithira Ngugi who died intestate on 29th July 2012 was made and issued to Carol Wachu Njiriri, Jane Wanjiku Muturi, George Ngacha Njiriri and Emmah Wambui Njiriri jointly on the 9th day of July 2013 and subsequently confirmed on 6th February 2014 and the estate shared out as agreed and consented by all beneficiaries.
2. Consequently, the grant was registered in various land registries in the names of the administrators for the benefit of the respective beneficiaries each according to his or her share.
3. On 14th December 2017, the applicants/administrators filed a Chamber Summons dated 14th December 2017 purporting to amend and rectify the aforesaid certificate of confirmation of grant in respect to Gilgil/Karunga Block 3/872 (Ngeteti) and Kajiado/Kitengela (10856) so as to consolidate and revert the various shares (portions) given to individual beneficiaries into their original position for purposes of selling to a single buyer.
4. Application which is premised on grounds on the face of it is supported by an affidavit deponed on 11th December 2017 by the applicants jointly.
5. I have perused the application herein, affidavit in support and the consent attached thereto. The applicants are seeking court's authority to consolidate the two parcels of land into their original position for purposes of selling to a single buyer. Unfortunately under Section 74 and rule 43 (1) which governs rectification of a grant, the grounds quoted does not qualify for rectification to be done.
6. Rectification of grant entails errors in names and descriptions or in setting out the time, place and the deceased's death, or the purpose in a limited grant. The properties in question have already been registered in the names of the administrators pending transfer to the individual and respective beneficiaries. That is not an error to be corrected. To allow such applications will be tantamount to handling succession files indefinitely. Litigation must come to an end. Administration of the estate must have time limitation as well. The administrators are at liberty to transfer to the beneficiaries their shares who will in turn sell to the buyer separately. We cannot keep courts engaged on such matters even after the process of administration of the estate is completed. Accordingly, application is dismissed for lack of merit.

SIGNED, DATED AND DELIVERED AT NAIROBI ON THIS 19th DAY OF APRIL, 2018.

J.N. ONYIEGO (JUDGE)

In the presence of:

Applicants..... In person

Edwin Court Assistant