



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MACHAKOS**

**SUCCESSION CAUSE NO. 262 OF 2009**

**IN THE MATTER OF THE ESTATE OF KIMUYU MUOLA (DECEASED)**

**RULING**

1. This is a ruling on an application for rectification of Grant of Letters of Administration intestate confirmed on 18/5/2012 by Dulu, J. granting the estate property listed as Konza South/Block 2/289, Baraka Moleu Self Help Group Land no. 182 Malinga Hand Craft and Day Light Self Help Group all to be registered in the names of Monicah Kimuyu and Geoffrey Kioko.

2. The rectification was sought on the basis that *“at the time of the confirmation of Grant some of the deceased’s properties were inadvertently left out in the list of the properties as contained in the application for confirmation of Grant”*.

3. The petition showed the two petitioners’ Monicah Kimuyu (widow) and Geoffrey Kioko (son) and daughter Doreen Nthenya, Jane Ndungwa, Ann Kanini Jackline Ndunge and Purity Syombua as the beneficiaries and they have all consented to the rectification seeking the distribution of the estate as established by the rectified grant to the widow Monicah Kimuyu in whole shares.

4. It only remained to confirm that all the assets sought to be included in the Estate for distribution were lawful properties of the deceased. The application has attached official searches on the property and correspondence with Standard Chartered Bank in support of the rectification application. While properties 427, 440 and 426 are registered in the names of the deceased Kimuyu Muola, property no. 404 is registered in the name of Maleu Ilandi. The court accordingly called for clarification and the petitioners’ filed a further affidavit sworn by Angela Kavindu Maleu on 22/2/16 who deponed that she was aware that the property Machakos/ Nziuni/ 404 had been sold by her late husband Malen Ilandi Alias William Maleu Ilandi to the deceased herein Kimuyu Muola, but the transfer was not effected as the seller had died before the same could be effected. She annexed the Confirmed Grant in respect of her husband’s estate in S.C no. 267 of 2008 made on 18/6/2009 and signed by Lenaola, J. (as he then was) to demonstrate that *“the said property Machakos/Nziuni/404 was left out at the confirmation of Grant in respect of the Estate of the late Maleu Ilandi alias William Maleu Ilandi as it was not available for distribution to the survivors of her deceased”*.

**Conclusion**

5. Having considered the application for the rectification of the Grant herein and the Supporting Affidavit of the applicant and that of Angela Kavindu Maleu and noting the consent of the distribution by the beneficiaries, I find that the assets subject of the rectification application are estate property for distribution as such in accordance with the consent of the beneficiaries hereof.

**Orders**

6. Accordingly, for the reasons set out above, I grant the application for rectification so that the assets named herein as Machakos/ Nziuni/ 404, 427, 440, 426; Kali market Mbooni market, Kithetheni plot 2 (shop) and Standard Chartered Bank A/C 01501-058188-01 are included as assets of the deceased which shall now be distributed in accordance with the consent of the other beneficiaries in the name of Monicah Kimuyu, the widow in whole share.

7. Cost in the cause

**EDWARD M. MURIITHI**

**JUDGE**

**DATED AND DELIVERED THIS 26<sup>TH</sup> DAY OF NOVEMBER 2018.**

**G.V. ODUNGA**

**JUDGE**

**Appearances: -**

M/S Kiplangat & Associates, Advocates for the Administrators.