



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 2182 OF 2015**

**IN THE MATTER OF THE ESTATE OF WILSON GITUKU WANGAI ALIAS WILSON  
GITUKU ALIAS WILLISON GITUKU WANGAI (DECEASED)**

**RULING**

1. The Application for summons for Rectification of Grant filed on 9<sup>th</sup> December 2016 it seeks orders that:

**i. THAT** the Confirmed Grant of Letters of Administration issued on 25<sup>th</sup> November 2016 be **RECTIFIED** as shown on the Supporting Affidavit of **SAMUEL WANGAI GITUKU** filed in support of Application.

**ii. THAT** the costs of this Application be paid from the Estate.

2. The Application is supported by the Affidavit of Samuel Wangai Gituku sworn on 8<sup>th</sup> December 2016. Mr. Gituku is one of the Administrators of the Estate of Wilson Gituku Wangai. The Application seeks rectification of various aspects of the Grant and Confirmation. They are:

a. The name of the deceased. It is said, 'It should read "In the Matter of the Estate of Wilson Gituku Wangai also known as Wilson Gituku also known as Willison Gituku Wangai".'

b. That the property should read as "Githunguri/Kiairia/T.440 and not Githunguri/Kiaria/T.44.

c. That the property Githunguri/Ikinu/619 should be shared amongst beneficiaries "1 – 6" in the confirmed grant. Each to receive 0.0486 of the said land as set of in the consent. The first exhibit shows that the Land Title names the property in Githunguri as Githunguri/Kiairia/T.440 as registered in the name of the deceased expressed as "Wilson Gituku Wangai". It amounts to 0.20 Acres. The second Exhibit is a Land Certificate issued by Kiambu District. It is Title No. Githunguri/Githiga/492 and is registered in the name of Willison Gituku Wangai. The third Title for Githunguri/Ikinu 619 is registered in the name of "Wilson Gituku". Unfortunately that document does not read the size of the land. However, it appears from Exhibits to the Affidavit in support of the confirmation of grant to amount to 0.349 hectares.

d. The shares should be 0.0486 hectares in the co-named beneficiaries namely:

i. Paul Njuguna Gituku

ii. Joseph Mugo Gituku

iii. Benson Ng'ang'a Gituku

iv. Bedan Ngene Gituku

v. Samuel Wangai Gituku

vi. Sophia Wanjiku Kabeu

3. Having heard the Submissions in Court and considered the documents filed and appearing on the Court file. The Court makes the following orders:-

1. Change of names – Prayer granted

2. Correction in Title to T.440 – Prayer granted

3. Correction in shares of Ikinu/619 to be 0.486 for beneficiaries 1 – 6 – prayer granted

4. On the question of costs, it is noted that the areas that required rectification are repeated on various occasions in the documents filed. In the circumstances there is no basis on which the estate should bear the costs of rectification put forward and not explained in the circumstances that prayer for costs is dismissed.

Order accordingly

**FARAH S. M. AMIN**

**JUDGE**

**SIGNED AND DATED at NAIROBI this 21<sup>ST</sup> day of MARCH, 2017.**

In the Presence of

Mr Githinji (Clerk) for the Administrator