



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
SUCCESSION CAUSE NUMBER 798 OF 2012
IN THE MATTER ESTATE OF HEZERON MURIUKI NJONJU ALIAS
KAMUIRU S/O NJONJO (DECEASED)
FRANCIS KIBUGI MURIUKIAPPLICANT

RULING

This Summons for Rectification of grant is brought under Certificate of Urgency and an affidavit sworn by Francis Kibugi Muriuki on the 19th May 2017. It is also accompanied by a consent to the rectification of grant signed by the other three beneficiaries dated the same day.

It is brought under section 74 of the law of Succession Act and rule 43 of the P&A Rules.

On the 28th February 2017 I signed the certificate of confirmation of grant. According to the certificate of urgency the same contained errors that have made it incapable of being effected. He therefor seeks orders to rectify the same in the following terms.

- i. The name of the deceased to read HEZERON MURIUKI NJONJU alias S/O NJONJO instead of HEZERON MURIUKI alias KAMUIRU S/O NJONJO
- ii. One FRANCIS KIBUGI MURIUKI the administrator be added in the mode of distribution
- iii. The name of one of the beneficiaries to read ELDAD KABINGA KAMUIRU instead of ELDAD KAHINGA KAMUIRU.

The grounds for the application are that there were typing errors during the typing of the certificate of confirmation of grant, whereby the names of the deceased and one beneficiary were misspelt, the name of the administrator was omitted.

I have perused the application and the affidavit in support. I have also perused the record.

The certificate of death names the deceased as HEZERON MURIUKI NJONJU and so does the chief's letter. However, the property KIRIMUKUYU/MBOGOINI/86 is in the names of KAMUIRU s/o NJONJO.

I have also noted there is a beneficiary by the name ELDAD KABINGA KAMUIRU. His name is misspelt in the grant.

The orders of 28th February 2017 show that the estate was to be shared equally among;

1. FRANCIS KIBUGU MURIUKI
2. ELDAD KABINGA KAMUIRU
3. ANNA MWERU WAITHAKA
4. MARGARET WANJIKU NJONJO.

The confirmed grant does not bear the name of the administrator despite the record reflecting the order above.

Section 74 of the Law of Succession Act cap 160 Laws of Kenya provides that the court may rectify

errors in names and descriptions, or in setting fourth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by then court, and the grant of representation, whether before or after confirmation, maybe altered and amended accordingly.

Rule 43 (1) of the P&A rules provides for the procedure as follows,

(1) Where the holder of a grant seeks pursuant to the provisions of section 74 of the Act rectification of an error in the grant as to the names or descriptions of any person or thing or as to the time or place of the death of the deceased or, in the case of a limited grant, the purpose for which the grant was made, he shall apply by summons in Form 110 for such rectification through the registry and in the cause in which the grant was issued.

The applicant has pointed out the errors to be rectified. I find that they fall in the category of the errors the court is empowered to rectify.

Taking into considerations the circumstances of the application, I do certify the summons for rectification of grant as urgent. I am satisfied that the errors pointed out render the certificate of confirmation incapable of being effected unless the said errors are rectified.

Hence, I grant the orders for rectification as sought in the summons for rectification of grant dated 19th May 2017 in the as prayed in the terms set out above.

The certificate of confirmation of grant issued on the 28th February 2017 be amended accordingly.

DATED AND SIGNED this 23rd May 2017 at Nyeri.

TERESIA MATHEKA

JUDGE