

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

SUCCESSION CAUSE NO. 1210 OF 1989

IN THE MATTER OF THE ESTATE OF KERMALLY JAFFER (DECEASED)

AND

IN THE MATTER OF AN APPLICATION FOR RECTIFICATION OF GRANT

BY

ROSHANALI SULTANALI KARMALI.....APPLICANT

RULING

1. The application before court for determination is the summons for rectification of grant dated 15th March, 2017 seeking the following orders:-

a. That Roshanali Sultanali Karmali, the grandson of Kermally Jaffer be appointed as administrator in place of Sultanally Kermally and Ali Kermally alias Ali Karmally, who passed on 2nd day of October, 1989.

b. That the grant issued to Roshanali Sultanali Karmali be confirmed and the estate be distributed to Roshanali Sultanali Karmali.

c. That the costs of this application be in the cause.

2. In support of the application, the Applicant swore an affidavit on 14th February, 2017 in which he deponed that a certificate of confirmation of grant of probate had been issued to Sultanally Kermally and Ali Kermally on 13th December, 1990, both of whom have since passed on. He therefore seeks to substitute the two as an administrator of the estate.

3. Further, that the estate also comprised of shares with Barclays Bank of Kenya held jointly by himself and the deceased and it was his prayer for the shares to be transferred to him (Applicant) as the other beneficiaries entitled to a share of the ordinary shares have relinquished their interest in the shares to the applicant. However, after perusing the application, supporting affidavit and annexures thereof, there is no evidence nor proof by way of death certificates attached to confirm that indeed the executors have since died. In the absence of such proof, this court is inclined not to grant the orders sought as the applicant lacks capacity to seek the aforesaid prayers.

4. Accordingly the application herein is dismissed with no order as to costs.

Order accordingly.

DATED AND DELIVERED IN OPEN COURT THIS 29TH DAY OF SEPTEMBER, 2017.

J.N. ONYIEGO

JUDGE

In the presence of;

.....Advocate for the applicant