



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

SUCCESSION CAUSE NO. 157 OF 1998

IN THE MATTER OF THE ESTATE OF MUTINDA MUIITHYA – DECEASED

AND

**IN THE MATTER OF RECTIFICATION OF THE GRANT OF LETTERS OF
ADMINISTRATION TO THE ESTATE OF THE DECEASED UNDER SECTION 74 RULE 43(1)
OF THE LAW OF SUCCESSION ACT (CAP. 160 LAW OF KENYA)**

RULING OF THE COURT

1. The Summons for Rectification of Confirmed Grant dated **16th May, 2016** seeks the following orders;
 - a. That the certificate of Confirmation Grant made to the Public Trustee on **22nd October, 2004** be rectified in the following respect as provided by **Rule 43(1)** of the **Probate and Administration Rules**.
 - That the schedule of assets be rectified to read as follows:-
 - i. *11,556 East African Breweries Limited ordinary shares omitted in the certificate be included.*
 - ii. *4,032 East African Breweries Limited ordinary shares omitted in the certificate be included.*
 - iii. *Land parcel Number; Kalawa/Katulumbu/359 omitted in the certificate be included.*
 - iv. *Land parcel number; Makueni/Kalawa/ Katulumbi/8 omitted in the certificate be included.*
 - b. That the costs of this application be paid out of this estate.
2. The applicant's case is that the Grant of Letters of Administration was issued to the Public Trustee on **28th April, 2004**. The said grant was confirmed on **22nd October, 2004**. After the process of confirmation, the Public Trustee did receive instructions from one **Mukeli Mutinda Muithya** widow to the deceased instructing them to include the following assets in the Estate which assets were held by the deceased prior to his demise.
 - i. *11,556 East African Breweries Limited ordinary shares*
 - ii. *4,032 East African Breweries Limited ordinary shares*

iii. Land Parcel number; Kalawa/Katulumbu/359

iv. Land Parcel Number Makueni/Kalawa/ Katulumbi/8

(The Applicant annexed copies of share certificates marked MN-1).

3. The land parcel number Makueni/Kalawa/Kathulumbi/8 has since been sold to one **Stephen Mboya Mulonzi** (Annexed and marked MN-2 is a copy of the identity card).

4. That **Mutuku Mutinda Muithya** the second son and a heir to the Estate has since passed on (Annexed and marked MN-3 is a copy of the death certificate).

5. The Applicant's case is that it is desirable that the certificate of confirmation be rectified to include the shares and land parcels to facilitate distribution of the estate.

6. It is proposed that the rectified certificate of confirmation of grant should read as follows:

- The identification and shares of all persons beneficially entitled to inherit the estate of the deceased have been ascertained and determined as follows:
- Kalawa/Kathulumbi/359 to be registered in the name of **Mwongela Mutinda Muithya** son to the deceased.
- Makueni/Kalawa/Kathulumbi/8 to be registered in the name of **Stephen Mboya Mulonzi** (Purchaser).
- 11,556 East African Breweries Ltd ordinary shares, Account Number 65,200 to be registered in the name of **Mukeli Mutinda Muithya**.
- 4,032 East African Breweries Ltd ordinary shares, Account Number 746950 to be registered in the name of **Mukeli Mutinda Muithya**.

Schedule of Assets.

- 11,556 East African Breweries Limited Ordinary shares
- 4,032 East African Breweries Limited Ordinary shares
- Land parcel number; Kalawa/Kathulumbu/359
- Land Parcel Number; Makueni/Kalawa/ Kathulumbi/8

7. The Applicant submitted that it is desirable that the said certificate of grant be rectified to enable finalization of this estate effectively.

8. I have carefully considered the application. There is no opposition to it. The same is allowed as prayed.

DATED, SIGNED AND DELIVERED THIS 27TH DAY OF OCTOBER, 2016

E.K.O. OGOLA

JUDGE

In the presence of;

M/S Salim for Public Trustee

Court Assistant – Mr. Munyao