

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 431 OF 1994

IN THE MATTER OF THE ESTATE OF DAVID MBAI NTHUSI – (DECEASED)

RULING

1. The application dated 25th June 2014 seeks rectification of the certificate of confirmation of grant dated 27th January 1995. It is premised on the facts set out in the affidavit of one of the administrators, Gideon Mulwa Mbai.
2. The applicant seeks that a dead administrator, Esther Munyiva Mbai, be replaced as co-administrator by Fiona Mbai, one of her daughters and one of the administrators of her estate as appointed in Nairobi HCSC No. 1159 of 2011.
3. The second prayer is that the certificate of confirmation of grant dated 27th January 1995 be amended to incorporate the schedule of distribution contained in the certificate of confirmation of grant dated 27th February 2013 issued in HCSC No. 1159 of 2011.
4. The said incorporation should only relate to five (5) parcels of land that Esther Munyiva Mbai was entitled to from the estate of her deceased husband, David Mbai Nthusi. The said parcels of land are in the Nguluni Adjudication Section and are number 1311 sheet no. 33, 1313, 1315, 1317 and 2278 sheet No. 23.
5. The applicant states that their mother died before the said assets could be transferred to her name, and it has therefore become difficult for them to implement the certificate of confirmation of grant dated 27th February 2013.
6. The orders that I will make in the circumstances are:-
 - a. That the grant of letters of administration intestate dated 30th May 1994 is hereby revoked;
 - b. That I do hereby appoint Fiona Ndinda Mbai and Gideon Mulwa Mbai administrators of the estate of the deceased herein and a grant of letters of administration intestate shall issue to them accordingly.
 - c. That the certificate of confirmation of grant dated 27th January 1995 to be amended so as to reflect parcels numbers 1311 sheet No. 33 and 1313 sheet No. 23, 1315 sheet No.32, 1317 sheet No. 23 and 2278 sheet No. 23 in the Nguluini Adjudication Section as devolving upon Fiona Ndinda Mbai and Gideon Mulwa Mbai as administrators of the estate of Esther Munyiva Mbai; and
 - d. That costs shall be in the cause.

DATED, SIGNED and DELIVERED at NAIROBI this 23rd DAY OF January 2015.

W. MUSYOKA

JUDGE

In the presence of Mr. Kuria for Mr. Kamanda for the applicant.