



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MACHAKOS**  
**SUCCESSION CAUSE NO. 192 OF 1993**

**IN THE MATTER OF THE ESTATE OF MOLO MANI ISA, MWAKAVI MUTIE AND SWALE  
KIETI (DECEASED)**

**RULING**

**Applications before the Court**

1. This is a ruling on a dual application by self representing applicants for the rectification of the Grant herein and consequent confirmation of Grant to facilitate the distribution of the Estate for the deceased persons herein.
2. Grant of Letters of Administration was made in respect of the three estates the subject of these proceedings on 4<sup>th</sup> July 1994 by Osiemo, J.
3. The said Grant was rectified by the Court (Jaden, J.) on the 5<sup>th</sup> June 2015 following an application dated 17<sup>th</sup> April 2015 for the substitution of Mackenzi Ndollo, Nicholas Sila Kamuya and Hassan Henry Kaveke, respectively sons of the deceased administrators Ndolo Mungalika, Kamuya Kieti and Maveke Manai Isa.
4. It is proposed by the present application that one Lawrence Mutua Maveke be substituted in place of Hassan Henry Maveke who has since died and that the Grant be confirmed in terms of the application for confirmation dated 26<sup>th</sup> June 2015 made consequent upon the grant of the application for substitution dated 17<sup>th</sup> April 2015.

**Findings**

5. I have noted the certificate of death of the administrator Hassan Henry Maveke dated 27<sup>th</sup> October 2015 and the consent to the proposed distribution signed by the other beneficiaries Boniface Muthiani Kamuya, Frankson Salee Maveke and Boniface Ndina Maveke dated the 4<sup>th</sup> November 2015.
6. The application for confirmation of grant proposes that the estate asset Maputi/ Kiima Kimwe/1428 measuring 20.0 ha be distributed as follows:

- 4.04 ha be registered in the names of Benjamin Loki Wambua.

- 16.0 ha be registered in the joint names of Mackenzi Ndollo, Nicholas Sila Kamuya and Hassan Henry Maveke (now to be substituted by Lawrence Mutua Maveke).

**Conclusion**

7. According to an official search dated 10<sup>th</sup> March 2015 attached to the application for confirmation the parcel of land Muputi/Kiima Kimwe/1428 is registered since 15<sup>th</sup> May 1977 in the names of Selee Kiiti Mwanza, Nzoka Muteti, Molo Muteti and Mwakavi Mutie. It is not clear under which registered proprietors the respective applicants herein claim, although the applicants are described in the affidavit supporting the application for confirmation as sons of the 'our deceased fathers Molo Manai Isa, Mwakavi Mutie, Swale Kieti.' The beneficiary of the distribution named Benjamin Loki Wambua is also not described and the Court is unable to establish whether he is a beneficiary of the deceased estate owners or a purchaser/transferee for value or gift.
8. In these circumstances, the Court is unable to confirm the grant without hearing beneficiaries on their respective interest in the estate property.

### **Orders**

9. However, the court is able to substitute the deceased administrator's brother as co-administrator as prayed in the Summons dated 4<sup>th</sup> November 2014. The application for confirmation will be heard on a date to be fixed in consultation with the parties. Costs in the cause.

**DATED AND DELIVERED THIS 23<sup>RD</sup> DAY OF NOVEMBER 2015.**

**EDWARD M. MURIITHI**

**JUDGE**

In the presence of: -

Mr. Nicholas Sila Kamuya

Mr. Lawrence Mutua Maveke

Mr. Mackenzi Ndolo

Mr. Benjamin Loki Wambua

Mr. Moruri - Court Assistant.