

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NO. 164 OF 2009

IN THE MATTER OF THE ESTATE OF ONESMUS CHEGE NGANI- (DECEASED)

RULING

1. This ruling is in respect of the application dated 18th July, 2014 lodged by Wilfred Ngani Chege, an administrator of the Estate of Onesmus Chege Ngani brought under **Sections 47 and 81** of the **Law of Succession Act**.

2. The application is brought by way of notice of motion and seeks orders:

i) Spent

ii) That there be rectification to the Certificate of Confirmation of Grant issued on the 3rd May, 2013 by rectifying the acreage for Joseph Waweru Chege, NYANDARUA/NGORIKA/34 measuring approximately 0.0675 and Florence Njoki, NYANDARUA/NGORIKA/34 measuring approximately 0.0825 with 0.675 and 0.825 respectively.

iii) That this Honourable court be pleased to issue another Certificate of Confirmation of Grant with the rectified acreage therein.

3. The application is based on grounds that the Certificate of Confirmation of Grant shows that the relevant acreages as 0.0675 and 0.0825 respectively instead of 0.675 and 0.825 respectively. This fact is borne out of the affidavit in support sworn by Wilfred Ngani Chege. Annexed to the said affidavit are a consent to rectification of grant signed by all the beneficiaries and a copy of the Certificate of Grant showing that Florence Njoki was to hold 0.0825acreas and Joseph Waweru Chege 0.0675 acres.

4. I have considered the application, the grounds, supporting affidavit and the annextures thereto. Most importantly, I have had regard to the affidavit of Wildred Ngari Chege sworn on the 26th day of March, 2012 and the identification of shares of the various beneficiaries as stipulated in paragraph 5 thereof. It is clear that the provision of Florence Njoki Chege was 0.825 and Joseph Waweru Chege was to hold 0.675 acres in trust for Catherine Wanjiku and Lucy Wairimu (daughters of Ann Wanjiru Chege – deceased).

5. It follows therefore that the rectification sought is necessary to provide for the rightful share of the beneficiaries mentioned in 4 above.

6. For the above stated reasons, the application before court is wholly successful. The same is allowed in terms of prayers 2 and 3 thereof. There shall be no order as to costs.

Dated, Signed and Delivered at Nakuru this 20th day of November, 2015.

A. K. NDUNGU

JUDGE