



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MILIMANI**

**SUCCESSION CAUSE NO: 1970 OF 2009**

**IN THE MATTER OF THE ESTATE OF PETER NJONGE MWONGI (DECEASED)**

**RULING**

The summons dated 8th May 2013 is for rectification of the certificate of confirmation of grant dated 19th May 2010.

The grant made to the administrator on 20th January 2010 was confirmed on 9th June 2010. Under the certificate of confirmation of grant, the landed property was to be held by the widow of the deceased for the benefit of the children of the deceased. This rectification application seeks to determine the trust so that the landed property passes to the widow absolutely.

Although the application is premised on **Section 74** of the Law of Succession Act and is said to be for rectification; the reality is that there are no errors of the sort envisaged by **Section 74** of the Law of Succession Act and Rule 43 of the Probate and Administration Rules. What the administrator seeks to do is not to have errors rectified but to change the mode of distribution. Such a thing can only be achieved through review. Review is provided for under Rule 63 of the Probate and Administration Rules, which imports the review provisions from Civil Procedure Rules.

As the beneficiaries appear to be in agreement with the proposed changes, as evidenced by the consents filed with the application, I will exercise inherent powers under Rule 73 of the Probate and Administration Rules to invoke Order 45 of the Civil Procedure Rules. The confirmation proceedings conducted on 9th June 2010 are hereby reviewed in the terms proposed in the application dated 8th May 2013. A fresh certificate of confirmation of grant shall issue accordingly.

**DATED, SIGNED and DELIVERED AT NAIROBI THIS 27th DAY OF June 2013.**

**W.M. Musyoka**

**JUDGE**