



CIVIL PRACTICE AND PROCEDURE

- S. 99 of the Civil Procedure Act enables the court either on its own motion or on application to amend arithmetical or clerical errors in judgments, orders of decrees.

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 56 OF 2001

IN THE MATTER OF THE ESTATE OF M'MUKINDIA M'KUGIYA *alias* MUKINDIA S/O KUUGIA (DECEASED)

M'MBUI MUKINDIA
PETITIONER

VERSUS

NKANATA MUKINDIA OBJECTOR

RULING

The objector in this succession has filed a summons dated 15th December seeking the following orders:-

1. THAT this honourable court be pleased to rectify the errors in the judgment dated 31/7/2009 to read as ABOGETA/U-CHURE/434 instead of ABOTHUGUCHI/U-CHURE/434.

2. THAT the honourable Judge be pleased to rectify the errors in ruling dated 29/10/2009 to read ABOGETA/U-CHURE/434 instead of ABOTHUGUCHI/U-CHURE/424.

When this cause was filed in the year 2001, the parcel of land belonging to the deceased was clearly indicated to be Abogeta/U-Chure/434 and not Abothuguchi/Upper Chure/434. I have seen the chief's letter dated 28th January 2007 which letter confirmed that the suit property of the deceased was Abogeta/Upper Chure/434. It is for that reason that I find the prayers which are sought by the objector by his application dated 15th December 2010 is merited. Section 99 of the Civil Procedure Act provides the court with power to amend judgments, decrees or orders where there is a clerical or arithmetical mistake. This can either be done on the court's own motion or on an application. This court therefore has powers

to grant the orders that are sought by the objector. I grant the following orders:-

1. This court does hereby rectify the judgment dated 31st July 2009 and the ruling dated 29th October 2009 to read Abogeta/Upper Chure/434 instead of Abothuguchi/Upper Chure/434.

2. There shall be no orders as to costs in respect of the summons dated 15th December 2010.

Dated, signed and delivered at Meru this 10th day of February 2011.

MARY KASANGO

JUDGE