



REPUBLIC OF KENYA



**In re Estate of Kipkering Yebei (Deceased) (Succession Cause  
E022 of 2021) [2025] KEHC 8477 (KLR) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 8477 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
SUCCESSION CAUSE E022 OF 2021  
JK NG'ARNG'AR, J  
MARCH 13, 2025**

**IN THE MATTER OF THE ESTATE OF KIPKERING YEBEI (DECEASED)**

**BETWEEN**

**WESLEY KIMUTAI ..... 1<sup>ST</sup> PETITIONER**

**SELINA CHEPWOGEN KERING ..... 2<sup>ND</sup> PETITIONER**

**AND**

**STEPHEN KERING ..... OBJECTOR**

**RULING**

1. The deceased Kipkering Yebei died on 18th May 1971. A Petition for Letters intestate was made by his second wife Raeli Chepngeno Yebei on 21st May 2021 and a Grant was issued in the names of Wesley Kimutai Cheruiyot, Stephen Kipkemoi Kering, Raeli Chepngeno Yebei and Jesca Chemutai Yebei on 19th October 2021.
2. The Grant was confirmed and a Certificate of Confirmation of Grant was issued on 24th May 2023.
3. The 1st Petitioner filed Summons for Rectification of the confirmed Grant and that is the subject of this Ruling.

**Summons for Rectification dated 5th September 2023**

4. The 1st Petitioner/Applicant wanted the Grant to be rectified in the following terms:-
  - i. That the deceased' estate be subdivided into three with the principal beneficiaries being Paulina Yebei (1st widow), Raeli Chepngeno Yebei (2nd widow) and Selina Chepwogen Kering (deceased's daughter in law).
  - ii. That Selina Chepwogen Kering was to get 0.6 acres.



- iii. That Wesley Kimutai Cheruiyot and Stephen Kipkemoi Kering to hold the 1st widow's (Paulina Yebei) share in trust.
- iv. That Jesca Chemutai Yebei and Raeli Chepngeno Yebei to hold the 2nd widow's (Raeli Chepngeno) share in trust.
5. It was the 1st Petitioner's case that Selina Chepwogen Kering was to get her independent title of 0.6 acres as the same had been agreed upon in mediation and the subsequent subdivision. It was the Petitioner's further case that after the Grant had been confirmed, the first family had issues on division and location of the shares due to prior developments on the subject land.
6. The 1st Petitioner stated that the two widows were satisfied with the acres they were awarded and the 2nd Petitioner (Selina Chepngeno Kering) had also been shown her 0.6 acres and was satisfied with it. The 1st Petitioner further stated that it was just and fair that the Administrators from each household hold shares in trust to give room for dialogue amongst them so as to avoid further disputes.
7. It was the 1st Petitioner's case that the second house hold's share had no dispute and they could go ahead and subdivide their shares as per the schedule in the confirmed Grant.
8. The 1st Petitioner filed a further Affidavit dated 1st July 2024 and stated that the subdivision be done between Paulina Yebei (18.725 acres) and Raeli Yebei (15.725 acres).
9. It was the 1st Petitioner's case that the Grant was not implementable on the ground. That the 1st household (Paulina Yebei) had not settled on the parcels each beneficiary was allocated. It was his further case that this had caused disputes and the matter was reported to Sotik Police Station.
10. The 1st Petitioner stated that the beneficiaries had refused to dialogue and failed to attend family meetings. That third parties had illegally purchased some parcels and took advantage of their ignorance and were now dictating where they should be settled. He further stated that each widow must be allocated 0.6 acres each independent of the main share for their upkeep as was agreed in the mediation.
11. It was the 1st Petitioner's case that as per the law, the principal beneficiaries were the two widows yet in the Grant some beneficiaries had acquired more than the widows.
12. In his submissions filed in court on 22nd October 2024, the 1st Petitioner submitted that the estate liabilities (cattle dip, Selina Chebwogen Kering's share, Access route and swamp) were not separated from the nest estate of the deceased. The 1st Petitioner further submitted that the deceased's estate had a liability of 1.2 acres which belonged to the widow of the late Richard Kering and that the same should be separated from the deceased's net estate.
13. It was the 1st Petitioner's submission that Raeli Yebei (second widow) had intermeddled with his 1.2 acres in violation of section 45 of the *Law of Succession Act*. It was the 1st Petitioner's submission that the disputes had affected the family's peace and stability.
14. The 1st Petitioner submitted that the proposed rectification did not contradict the previous share benefit per family. That for the first household, the proposed share in the rectified Grant was 3.02 acres as opposed to 3 acres contained in the confirmed Grant and for the second household was 3.78 acres as opposed to 3.75 acres contained in the confirmed Grant. He further submitted that the rectification was fair and just and would reduce the disputes.
15. It was the 1st Petitioner's submission that the intermeddlers must wait for the completion of these succession proceedings so that they could follow up with their sellers i.e. Wesley Chirchir, Vincent Kibet Kosgei and Vincent Korir.



## Objection

16. Stephen Kering filed an Objection to the Rectification of the Grant. He stated that he had the consent of all the beneficiaries in responding to the Rectification Application. He further stated that the Administrators had changed the mode of distribution as per the confirmed Grant without the authority of the beneficiaries.
17. It was the Objector's case that the Administrators forged the beneficiaries' signatures with the intention of misleading this court. That the purported Consent filed in court on 13th May 2024 was fraudulent.
18. The Objector did not file his submissions.
19. I have the considered the Application for Rectification of Grant dated 4th May 2021, the Objection dated 17th May 2024 and the Applicant's/1st Petitioner's written submissions filed on 22nd October 2024 The only issue for my determination was whether the prayer for rectification of the Grant is merited.
20. The law on rectification of Grants is found in section 74 of the *Law of Succession Act* which provides:-

Errors in names and descriptions, or in setting out the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly.
21. Rule 43(1) of the Probate and Administration Rules provides:-

Where the holder of a grant seeks pursuant to the provisions of section 74 of the Act rectification of an error in the grant as to the names or descriptions of any person or thing or as to the time or place of the death of the deceased or, in the case of a limited grant, the purpose for which the grant was made, he shall apply by summons in Form 110 for such rectification through the registry and in the cause in which the grant was issued.
22. The above referenced sections of the law have been expounded upon by several court decisions. In re Estate of Henry Mwithimbu Karigu (Deceased) [2020] KEHC 1318 (KLR) the court held:-

“From the language of section 74 of the *Law of Succession Act* and Rule 43(1) of the Probate and Administration Rules, the scope of rectification of grants of representation is limited to errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant. I may add that such other minor errors in that genre could also be rectified.” (Emphasis mine)
23. Similarly in re Estate of James Wainaina Ng'ang'a (Deceased) [2021] KEHC 1542 (KLR), the court held:-

“Rectification is allowed in order to correct a mis-description of a property or to correct a name which has not been fully or properly described in the Grant.

.....Rectification of a Grant is only permissible to cure minor errors, mistakes and irregularities in the Grant. Rectification cannot be used to fundamentally alter the character of the Grant.”
24. From the provisions of section 74 of the *Law of Succession Act* and the case law above, rectification of Grants was only limited to cure minor errors on the Grants. The present Application for the rectification of Grant as drafted sought for alteration of the division of the deceased's estate as



contained in the confirmed Grant. As captured earlier in this Ruling, the 1st Petitioner stated that the Grant was not practical as the mode of distribution contained in the confirmed Grant could not be implemented on the ground. The 1st Petitioner went ahead and filed his proposed mode of distribution with a consent to boot. This consent was impugned as the Objector disputed it and stated that the 1st Petitioner forged their signatures. It is needless to state that the Objector did not agree with the 1st Petitioner's proposed mode of distribution.

25. If this court was to rectify the Grant as proposed by the 1st Petitioner, it would be making sweeping and fundamental changes to the mode of distribution and it would go to the core of the distribution of the suit land and affect it. The same could not be effected through a rectification of the Grant. I am guided by re estate of Charles Kibe Karanja (Deceased) [2015] KEHC 2067 (KLR) where the Court held as follows:-

“If..... there is discovery of new assets that were not available or had not been discovered at the time of distribution, among others; it would be imprudent to seek rectification or alteration or amendment of the certificate of confirmation of grant. Such changes are fundamental, not superficial. They go to the core of the distribution. They cannot be affected without touching the orders made by the court at the distribution of the estate. Consequently, such changes cannot and should not be effected through a mere amendment of the certificate of confirmation of grant. The proper approach ought to be an application for review of the orders made at the confirmation of the grant.”

26. Flowing from the above, it is my finding that the changes as proposed by the 1st Petitioner do not fall under the ambit of section 74 of the Law of Succession Act.
27. It is my finding that the Application dated September 5, 2023 has no merit and is dismissed. Since this is a family matter, there are no orders as to costs.

Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 13<sup>TH</sup> DAY OF MARCH, 2025.**

.....

**HON. JULIUS K. NG'ARNG'AR**

**JUDGE**

Ruling delivered in the presence of Petitioner, No appearance for the Objector and Siele/Susan (Court Assistants)

