



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Nichodemus Okwaro Kendo - Deceased (Succession Cause 64 of 2010) [2025] KEHC 10979 (KLR) (25 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10979 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
SUCCESSION CAUSE 64 OF 2010**

**A MABEYA, J**

**JULY 25, 2025**

**IN THE MATTER OF THE ESTATE OF NICHODEMUS OKWARO  
KENDO - DECEASED**

**AND**

**IN THE MATTER OF AN APPLICATION BY MARY AKOMO OKWARO  
& JOHN OUKO OKWARO**

**RULING**

1. This is a ruling on the Summons for Rectification of Grant dated 10/4/2025. The summons sought rectification of the grant issued to the applicants on the 24/11/2020 on account of an error on their part where they allege they did not disclose all of the deceased's beneficiaries
2. The applicants are the wife & son of the deceased and administrators of the deceased's estate. The estate comprised land parcel Kisumu/Nyalunya/1138 that had been shared equally between six (6) of the deceased's beneficiaries as per the Certificate of Confirmation of Grant dated 24/11/2020.
3. The applicants sought to include six (6) more individuals in the mode of distribution of the deceased's estate as per paragraph eight (8) of their supporting affidavit while getting rid of one of the initial beneficiaries, Peter Awuor Okwaro.
4. The law on rectification off 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."



5. 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.”

6. *In re Estate of Henry Mwithimbu Karigu (Deceased)* (2020) eKLR, 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.”

7. I have considered the record and the history of this case. By rectifying the Grant as prayed, this court would be making sweeping and fundamental changes to the mode of distribution and it would go to the core of the distribution of the estate land and affect it. The same could not be effected through a rectification of the Grant.

8. *In re Estate of Charles Kibe Karanja (Deceased)* 2015 eKLR, 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 effected 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.”

9. The upshot of the above is that it is my finding that the changes as proposed by the parties do not fall under the ambit of section 74 of the *Law of Succession Act*. The Application in its present form cannot be granted and is hereby dismissed with no orders as to cost.

It is hereby so ordered.

**DATED AND DELIVERED AT KISUMU THIS 25<sup>TH</sup> DAY OF JULY, 2025.**

**A. MABEYA, FCI Arb**

**JUDGE**

