



**In re Estate of M'Rubara M'Turuchiu alias Rubara Twaruchiu alias Riria Turuchiu (Deceased)
(Succession Cause 402 of 2012) [2025] KEHC 10681 (KLR) (21 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10681 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 402 OF 2012
SM GITHINJI, J
JULY 21, 2025**

**IN THE MATTER OF THE ESTATE OF M'RUBARA M'TURUCHIU
ALIAS RUBARA TWARUCHIU ALIAS RIRIA TURUCHIU (DECEASED)**

IN THE MATTER OF

**CHARLES KIUNGA RUBARA 1ST PETITIONER
ROBERT NJURI RUBARA 2ND PETITIONER**

RULING

1. For determination is the Summons for Rectification of Grant dated 22/2/2024 pursuant to section 76 of the *Law of Succession Act* and Rules 44, 49 and 73 of the *Probate and Administration Rules*, seeking that:
 1. Spent
 2. This Honorable court be pleased to remove the names of the 1st petitioner/administrator Charles Kiunga Rubara as a co-administrator of the estate of the deceased as he has refused to sign the transfer documents to finalise this old matter.
 3. This Honorable Court be pleased to further rectify the grant and the same be issued to the 2nd administrator Robert Njuri Rubara to enable him finalise the distribution of the remaining part of the estate of the deceased.
 4. This Honorable Court be pleased to issue such further orders as be necessary in this matter.
2. The application is supported by the affidavit sworn by Robert Njuri Rubara, the 2nd petitioner herein sworn on even date. He averred that while the distribution of L.R Nos. Abothuguchi/Kariene/1XX2 and 9X4 had been completed, the distribution of L.R No. Abothuguchi/Kariene/9X6 (hereinafter referred to as the undistributed property) had stalled as a result of the 1st petitioner's refusal to sign the



transfer documents, despite several requests to do so, necessitating the grant to be further rectified so that the administration of the estate can be completed.

3. In opposing the application, Charles Kiunga Rubara, the 1st petitioner herein swore a Replying Affidavit on 23/4/2024 in which he deposed that the application was a sham littered with falsehoods and geared towards painting him in bad light. The delay in administering the undistributed property has been occasioned by the prospective beneficiaries' lack of cooperation and failure to facilitate the process. In fact, the petitioners have jointly executed the RL19 and the application for LCB consent for subdivision, but the process has since stalled due to the intended beneficiaries' failure to pay the requisite fees. He prayed for the dismissal of the application with costs because he has been keen on distributing the estate of the deceased.
4. The application was directed to be canvassed by way of written submissions, which were only filed by counsel for the 2nd petitioner.

Disposition.

5. Having considered the application, the replying affidavit and the submissions on record, I find the issue for determination to be whether the rectification sought is warranted.
6. The import of the rectification of the grant sought by the 2nd petitioner is to remove the 1st petitioner as a joint administrator, who according to him, has vehemently refused to execute the relevant documents for the transmission of the undistributed property to Veronica Gaceru Mwirichia, Joanina M'Itonga, Gladys Kagwiria Rubara, Lucia Muthoni and Rosemary Nkirote Kirai in equal shares. In rejoinder, the 1st petitioner contended that the process of the implementation of the grant had stalled because the aforementioned beneficiaries have utterly refused to facilitate the process.
7. It is anticipated that the said beneficiaries will accord the administrators their utmost cooperation and financial support to ensure the undistributed property is, in due course, registered in their names.
8. I take cognizance of the duly executed application for Land Control Board Consent to subdivide the undistributed property as per the grant and the application to be registered as proprietors by transmission dated 6/3/2023.
9. The onus of proof rested upon the 2nd petitioner to establish that the 1st petitioner deliberately failed to administer the undistributed property to the beneficiaries, which burden has not been discharged.
10. In the premises, it is my considered view that the transmission process of the undistributed property is nearing completion, and the rectification of the grant as sought by the 2nd petitioner would serve no practical purpose.
11. The upshot from the foregoing analysis is that the application dated 22/2/2024 is in want of merit and it is hereby dismissed.
12. Costs in the cause.

DATED AND DELIVERED AT MERU THIS 21ST JULY, 2025

S.M. GITHINJI

JUDGE

APPEARANCES:-

Mr. Muguna holding brief for Mr. Munene for the Petitioner.



Mr. Omari holding brief for Mr. Kiogora Arithi for the 2nd Petitioner.

