



REPUBLIC OF KENYA



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In re Estate of the Late Ibrahim K Muiruri (Deceased) (Succession Cause 301 of 2009) [2025] KEHC 10591 (KLR) (21 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10591 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 301 OF 2009**

RN NYAKUNDI, J

JULY 21, 2025

IN THE MATTER OF THE ESTATE OF THE LATE IBRAHIM K. MUIRURI (DECEASED)

RULING

1. What is pending before me for determination are summons dated 8th May 2025 brought pursuant to section 74 of the *Law of Succession Act* and Rules 43 and 73 of the Probate and Administration Rules in which the Applicant is seeking the following order:
 - a. The Grant of Letters of Administration Intestate issued on 28th June 2010 be amended by deleting the names of John Gachuki Kiondo alias John Gichuki Kiondo and Johnny Gichami Muiruri alias Johnny Gachani Muiruri who were the administrators and are now deceased.
2. The Application is based on the grounds on the face of it among others:
 - a. That the Grant of Letters of Administration Intestate was issued to Wanjiku Muiruri, John Gachuki Kiondo alias John Gichuki Kiondo, Johnny Gichami Muiruri alias Johnny Gachani Muiruri and Solomon Mburu Gachami on 28th June 2010.
 - b. That John Gachuki Kiondo alias John Gichuki Kiondo and Johnny Gichami Muiruri alias Johnny Gachani Muiruri are now deceased.
 - c. That it is fair and proper that the Grant issued on 28th June 2010 be amended by deleting the names John Gachuki Kiondo alias John Gichuki Kiondo and Johnny Gichami Muiruri alias Johnny Gachani Muiruri.
3. The Application is supported by the annexed affidavit dated 8th May 2025 sworn by Wanjiku Muiruri And Solomon Mburu Gachami who aver as follows:
 - a. That a grant of letters of administration intestate was issued to us together with John Gachuki Kiondo alias John Gichuki Kiondo (Deceased) and Johnny Gichami Muiruri alias Johnny Gachani Muiruri (Deceased) on 28th June 2010.
 - b. That John Gachuki Kiondo alias John Gichuki Kiondo passed on 30th December 2010.



- c. That Johnny Gichami Muiruri alias Johnny Gachani Muiruri passed on 13th November 2024.
- d. That it is fair and proper that the Grant of Letters of Administration Intestate amended and issued on 28th June 2010 be amended by deleting the name John Gachuki Kiondo alias John Gichuki Kiondo (Deceased) and Johnny Gichami Muiruri alias Johnny Gachani Muiruri (Deceased)
- e. That it is in the interest of justice that the Grant of Letters of administration be amended so as to enable the remaining administrators administer the estate of the deceased.
- f. That it is fair and proper that the application be allowed as prayed.

Analysis and Determination

- 4. I have looked at the summons and the affidavit supporting the same. There is one sole issue for determination;

Whether the summons for amendment of the Grant are merited

- 5. I wish to start by noting that the undisputed facts are that a Grant of Letters of Administration Intestate was issued on 28th June 2010 to four persons: Wanjiku Muiruri, John Gachuki Kiondo alias John Gichuki Kiondo, Johnny Gichami Muiruri alias Johnny Gachani Muiruri, and Solomon Mburu Gachami. The said John Gachuki Kiondo passed away on 30th December 2010 and the said Johnny Gichami Muiruri passed away on 13th November 2024. The Applicants now seek the deletion of the names of the two deceased administrators from the grant issued in 2010. They argue that it is fair and just that the grant reflects the current status of the administrators, it will enable the remaining administrators to efficiently administer the estate of the deceased and that no prejudice will be suffered by any party as a result of the proposed amendment.
- 6. The crux of the application at hand calls for the reference to Rule 63 of the [Probate and Administration Rules](#) which states that: -

“(1) Save as is in the Act or in these Rules otherwise provided, and subject to any order of the court or a registrar in any particular case for reasons to be recorded, the following provisions of the Civil Procedure Rules, namely Order 5, rule 2 to 34 and Orders 11, 16, 19, 26, 40, 45 and 50 (Cap. 21, Sub. Leg.), together with the High Court (Practice and Procedure) Rules (Cap. 8, Sub. Leg.), shall apply so far as relevant to proceedings under these Rules.

(2) Subject to the provisions of the Act and of these Rules and of any amendments thereto the practice and procedure in all matters arising thereunder in relation to intestate and testamentary succession and the administration of estates of deceased persons shall be those existing and in force immediately prior to the coming into operation of these Rules.”

- 7. Rectification of grant is provided for in Section 74 of the [Law of Succession Act](#), Cap 160 Laws of Kenya and Rule 43(1) of the [Probate & Administration Rules](#). Section 74 provides as follows: -

“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 may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly. Rule 43(1) provides:- Where the holder of the 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 and place of 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 made."

8. Thus, rectification of grant of letters of administration is limited to matters set out in section 74 of the [Law of Succession Act](#). These matters specifically refer to corrections of error which the court may order without changing the substance of the grant. These include errors in names, description of any person or thing or an error as to the time or place of death of the deceased or the purpose for which a limited grant was issued. An error which is envisaged under the section is a mistake which may occur on the face of the grant like typing errors in names of persons or things.

9. The issue of rectification of grant has been addressed in various decisions in the High Court which I have considered here as persuasive authorities. [In the Matter of the Estate of Geoffrey Kinuthia Nyamwinga](#) (Deceased) [2013] eKLR, the Court held that: -

"The law on rectification or alteration of grants is Section 74 of the [Law of Succession Act](#) and Rule 43 of the Probate and Administration Rules.... What these provisions mean is that errors may be rectified by the court where they relate to names or descriptions, or setting out the time or place of the deceased's death. The effect is that the power to order rectification is limited to those situations, and therefore the power given to the court by these provisions is not general....

Where a proposed amendment of a grant cannot be dealt with under the provisions of Section 74 of the [Law of Succession Act](#), the applicant ought to approach the court under order 44 of the Civil Procedure Rules. A review under Order 44 of the Civil Procedure Rules may be sought upon discovery of new and important matter or on account of some mistake or error apparent on the face of the record, or for any sufficient reason. The applicant in this case should have moved the court under this Provision-Order 44 of the Civil Procedure Rules on account of some mistake or error apparent on the face of the record and on the ground that there exists a sufficient reason for review of the certificate of the confirmation of the grant."

10. In a nutshell, Section 74 of the [Law of Succession Act](#) empowers the Court to rectify errors or amend a grant for purposes of reflecting the true and accurate status of administrators or beneficiaries. I have considered the application, the supporting affidavit, and the law. There is no contest to the facts presented. It is clear to this Court that the two administrators, having passed away, can no longer perform the duties imposed under the grant. The amendment sought is purely administrative in nature and does not affect the substantive distribution of the estate.

11. Consequently, I find merit in the application. I therefore make the following orders:

- a. The Grant of Letters of Administration Intestate issued on 28th June 2010 is hereby amended by deleting the names of the deceased administrators, namely: John Gachuki Kiondo alias John Gichuki Kiondo, and Johnny Gichami Muiruri alias Johnny Gachani Muiruri.
- b. The surviving administrators Wanjiku Muiruri and Solomon Mburu Gachami shall continue to administer the estate in accordance with the law.
- c. The surviving administrators are hereby directed to administer the estate strictly within 90 days. The matter shall be mentioned on 30.10.2025 to confirm progress.



d. I make no order as to costs.

DATED, DELIVERED AND SIGNED AT ELDORET THIS 21ST DAY OF JULY 2025.

.....

R. NYAKUNDI

JUDGE

