



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Chepkonga Maina (Deceased) (Succession Cause
E265 of 1996) [2025] KEHC 10161 (KLR) (15 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10161 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE E265 OF 1996
RN NYAKUNDI, J
JULY 15, 2025**

IN THE MATTER OF THE ESTATE OF CHEPKONGA MAINA - (DECEASED)

RULING

1. The Grant of Letters of Administration to the deceased herein was originally issued to Willie Kibet Maina and Paul Chemugo Chelimo on 21st March, 2002. The said Grant was subsequently revoked and reissued to Samuel Kiplagat Maina, Roseline Chepkurui Maina and Peter Kipkorir Maina vide an amended certificate of confirmation of Grant issued on 12th March, 2024.
2. The administrators have yet again approached this court vide an application dated 18th June, 2025 in which they seek rectification of the impugned Grant in the following terms:
 - a. That Land Parcel number Eldoret Municipality Block 14/1210 be included and the same be registered in the names of Samuel Kiplagat Maina as a sole beneficiary of the same.
3. The application is supported by an affidavit sworn by Samuel Kiplagat Maina, who is both an administrator and son of the deceased. In his affidavit, he deposes that Land Parcel number Eldoret Municipality Block 14/1210, which was registered in the name of the deceased, was erroneously omitted from the rectified Grant issued on 12th March, 2024. He therefore prays that the impugned Grant be further rectified to include the said land parcel and that it be transmitted and registered in his name as beneficiary.

Decision

4. I have considered the application in question and the primary issue that needs determination is whether this court can rectify the amended amended certificate of confirmation of Grant issued on 12th March, 2024. The answer is in the negative. I find that the intended alterations go beyond the scope of rectification as prescribed in Section 74 of the Law of Succession and 43 (1) of the Probate and Administration Rules. By filing this summons the administrator is proposing to make fundamental and far reaching changes to the grant under the guise of rectification.



5. In Re Estate of Charles Kibe Karanja (Deceased) [2015] eKLR the Court held as follows:

“...If a party wishes to have the assets of the estate redistributed or 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 for 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. The remedy of review of court orders is not directly provided for in the *Law of Succession Act* and the Probate and Administration Rules, but it is imported into probate and practice by Rule 63 of Probate and Administration Rules, which has adopted a number of procedures from the Civil Procedure Rules.”

6. The application does not meet the requisite standard in that the proposed changes would fundamentally alter the character of the grant, and a mere rectification cannot cure this deficiency. The inclusion of Land Parcel number Eldoret Municipality Block 14/1210 and its registration in the name of Samuel Kiplagat Maina as sole beneficiary constitutes a substantial redistribution of estate assets that goes beyond clerical correction.
7. Furthermore, I note with concern that there is no consent from the other administrators, namely Roseline Chepkurui Maina and Peter Kipkorir Maina, to the proposed changes. This is a material omission that renders the application procedurally defective.
8. In the circumstances, the administrators are hereby called for conferencing on 28th July, 2025 for further directions.
9. Orders accordingly.

DATED SIGNED AND PUBLISHED VIA CTS AT ELDORET THIS 15TH DAY OF JULY 2025.

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R. NYAKUNDI

JUDGE

