



**In re Estate of the Late Kiplagat Mutung (Deceased) (Succession Cause
33 of 2020) [2025] KEHC 10208 (KLR) (15 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10208 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 33 OF 2020
RN NYAKUNDI, J
JULY 15, 2025**

IN THE MATTER OF ESTATE OF THE LATE KIPLAGAT MUTUNG (DECEASED)

IN THE MATTER OF

**ESTHER JEROTICH KIPRONO 1ST PETITIONER
SAMWEL KIPTOO 2ND PETITIONER
JACKSON KIPKOSGEI KIPLAGAT 3RD PETITIONER**

RULING

1. What is pending before this Court for determination are summons dated 25th June 2025 in which the Applicant is seeking the following orders:
 - a. Spent
 - b. The Amended Certificate of Confirmation of Grant dated 9/5/2025 be further amended by: -
 - a. Reducing the land apportioned to Mathew Kipkosgei Mutung (number XXXI) in Kipsinende/Kipsinende Block 1(Chepkeru)/20 from 1.67 acres to 1.11 acres.
 - b. Apportioning the 0.57 acres arising above to the following: -
 - i. Ann Kibet 0.141 Acres
 - ii. Elizabeth Jepkoech Kogo 0.110 Acre
 - iii. Pius Kortom 0.197 Acres
 - iv. Paul Kandie 0.110 Acres
 - c. Substituting the following names: -
 - i. Laban Kipkorir Kiprop in place of Christopher Kipkoech Ruto (no. XXI1



- ii. Kibet Cheruiyot in place of Joseph Kiprop Kigei (no. XXXIV)
 - iii. Purity Jepkogei Changwony in place of Rose Butia (no. XLII)
 - d. Correcting the names of beneficiaries as follows: -
 - i. Emmanuel Kipkoech Mamet instead of Emmanuel Kipkoech Mamei (no. XVII)
 - ii. Nancy Jepkoech Kipbiwot instead of Nancy Jepkoech Kibiwot (no. XXII)
 - iii. Gideon Kipkogei Kiplagat instead of Kideon Kipkogei Kiplagat (no. XXXVII)
 - iv. David Kibiwott Rop instead of David Kibiwot Rop (no. XLI)
2. The Application is based on the grounds on the face of it among others;
- a. The court issued Amended Grant of Letters of Administration dated 9/5/2025 in favour of the Administrators although the names of some of the administrators were erroneously captured.
 - b. Further, some of the beneficiary's names were not captured.
 - c. Therefore, there is need to further amend the amended certificate of confirmation of grant with the view to correct the errors, and add the names of beneficiaries who were left out at the mediation.
 - d. In the meantime, the beneficiaries have engaged a surveyor with the intention of executing the questionable Amended Certificate of Confirmation of Grant.
 - e. Should the amended grant be executed as is, then the distribution process will hit a snag in view of the glaring issues of omitted names and official names of the beneficiaries.
 - f. It is therefore imperative that the intended enforcement of the Amended Certificate of Confirmation of Grant be put on hold as the honorable court addresses the issues raised by the Applicant.
 - g. No prejudice will be occasioned to the Respondent if the orders sought are allowed.
3. The Application is supported by the annexed affidavit dated 24th June 2025 sworn by Paulina Cheptarus Kiplagat who avers as follows;
- a. That I am the 4th out of 5 widows of the Estate of the late Kiplagat Mutung herein hence competent to swear this affidavit.
 - b. That the Petitioners are the deceased's children born of the 1st house.
 - c. That the court issued Amended Grant of Letters of Administration dated 9/5/2025 in favour of the 4 Administrators although the names of some of the beneficiaries were erroneously captured while others were let out.
 - d. That there is need to further amend the amended certificate of confirmation of grant with the view to correct the errors, and add the names of beneficiaries who were left out at the mediation stage.
 - e. That should the amended grant be executed as is, then the distribution process will hit a snag in view of the glaring issues of omitted names and official names of the beneficiaries.
 - f. That It is imperative that the intended enforcement of the Amended Certificate of Confirmation of Grant be put on hold as the honorable court addresses the issues raised.



- g. That I swear this affidavit in support of the Application now before this honorable court.

Decision

4. A probate court is clothed with jurisdiction to grant permission to amend or rectify the certificate of confirmation of grant generally to deal with the issues justly and unable the real matters in controversy between the parties to be determined. In Kenya, the rectification of a grant of letters of administration, which is the process of correcting errors in a grant of representation, is governed by section 74 of the *Law of Succession Act*. This section allows for the correction of errors before or after the confirmation of the grant. Procedural rules, specifically Rules 43 and 14 (1), guide the application process.
5. Rectification of grants is provided for in section 74 of the *Law of Succession Act*, Cap 160, Laws of Kenya and Rule 43(1) of the Probate and Administration Rules. Section 74 provides as follows:

74. Errors may be rectified by court:

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 as follows:

“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 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.”

6. The court in the matter of the estate Geoffrey Kinuthia Nyamwinga (deceased) [2013] eKLR where the court stated;

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 of 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..

7. As a consequence of the above principles the amended certificate of grant dated 9th May 2025 be further amended in the following terms:

- a. Reducing the land apportioned to Mathew Kipkosgei Mutung (number XXXI) in Kipsinende/Kipsinende Block 1(Chepkero)/20 from 1.67 acres to 1.11 acres.
- b. Apportioning the 0.57 acres arising above to the following: -
 - i. Ann Kibet 0.141 Acres
 - ii. Elizabeth Jepkoech Kogo 0.110 Acre
 - iii. Pius Kortom 0.197 Acres



- iv. Paul Kandie 0.110 Acres
- c. S Substituting the following names: -
 - i. Laban Kipkorir Kiprop in place of Christopher Kipkoech Ruto (no. XXI)
 - ii. Kibet Cheruiyot in place of Joseph Kiprop Kigei (no. XXXIV)
 - iii. Purity Jepkogei Changwony in place of Rose Butia (no. XLII)
- d. Correcting the names of beneficiaries as follows: -
 - i. Emmanuel Kipkoech Mamet instead of Emmanuel Kipkoech Mamei (no. XVII)
 - ii. Nancy Jepkoech Kipbiwot instead of Nancy Jepkoech Kibiwot (no. XXII)
 - iii. Gideon Kipkogei Kiplagat instead of Kideon Kipkogei Kiplagat (no. XXXVII)
 - iv. David Kibiwott Rop instead of David Kibiwot Rop (no. XLI)
- e. The Deputy Registrar of the High court be and is hereby directed to issue a further amended certificate of confirmation of grant to crystallize the distribution matrix of the estate and affirm the correct names of the beneficiaries as known in and reflected in the National Identification cards.
- f. I make no orders as to costs in granting this application

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

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R. NYAKUNDI
JUDGE

