



REPUBLIC OF KENYA



**In re Estate of Joses Murungi M'mukaria (Deceased) (Succession Cause 658 of 2015) [2024] KEHC 1431 (KLR) (15 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1431 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
SUCCESSION CAUSE 658 OF 2015  
TW CHERERE, J  
FEBRUARY 15, 2024**

**IN THE MATTER OF THE ESTATE OF JOSES MURUNGI M'MUKARIA (DECEASED)  
AND  
IN THE MATTER OF AN APPLICATION FOR RECTIFICATION**

**IN THE MATTER OF  
CHARITY GACHEKE M'MUKARIA ..... ADMINISTRATOR**

**RULING**

1. I have considered the summons for rectification dated 05<sup>th</sup> February, 2024 supported by an affidavit sworn by Charity Gacheke M'Mukaria (Administrator/Applicant) purportedly on 24<sup>th</sup> February, 2024, which date is yet to be reached.
2. The summons is based on two main grounds as follows:
  1. Administrator/Applicant omitted the names of her sisters Margaret Ncionciru Kabiyo and Thirindi M'Kothaa who are beneficiaries of the estate
  2. LR. No. Upper Athiru Gaiti A/1132 was omitted from the schedule of deceased's estate
3. Administrator/Applicant prays that the grant issued on 17<sup>th</sup> July, 2019 be rectified and LR. No. Upper Athiru Gaiti A/1132 be distributed in equal shares to her and her sisters.
4. At the hearing of the summons, one Lucy Ciomithea whose name does not appear on the summons appeared and stated that she was deceased's sister also entitled to his estate and her claim was confirmed by the Administrator/Applicant.
5. Although Section 74 of the *Law of Succession Act* provides for rectification of grants in respect of errors in names and descriptions, or in setting forth the time and place of the deceased's death, section 47 of the Act gives this court inherent powers under Rule 73 of the *Probate and Administration Rules*



to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.

6. I find that this is one case where the inherent powers of the court can safely be invoked to ensure equitable distribution of deceased's estate to all his beneficiaries.
7. Consequently, summons for rectification dated 05<sup>th</sup> February, 2024 is allowed in the following terms:
  1. The Certificate of Confirmation of Grant issued on 17<sup>th</sup> July, 2019 shall be rectified as follows:
    - i. Plot no. 767(4292) Achulu Area shall be distributed to Charity Gacheke M'Mukaria
    - ii. LR. No. Upper Athiru Gaiti A/1132 shall be distributed in equal shares to Charity Gacheke M'Mukaria Lucy Ciomithea, Margaret Ncionciru Kabiro and Thirindi M'Kothaa
  2. The Rectified Certificate of Confirmation of Grant shall issue accordingly
  3. Mention on 29<sup>th</sup> April. 2024 to confirm transmission

**DATED AT MERU THIS 15<sup>TH</sup> DAY OF FEBRUARY 2024**

**WAMAE. T. W. CHERERE**

**JUDGE**

**Appearances**

Court Assistants - Kinoti/Munene

For Applicant - Mr.Omari for Kaberia Arimba & Co Advocates

