



REPUBLIC OF KENYA



**In re Estate of Caleb Shadrack Ago - Deceased (Succession Cause
333 of 2006) [2024] KEHC 5502 (KLR) (7 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5502 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 333 OF 2006**

RE ABURILI, J

MAY 7, 2024

**IN THE MATTER OF AN APPLICATION BY ROSEBELLA ALISA AGO
AND MONICA AOKO AGO – APPLICANTS/ADMINSTRATORS**

RULING

1. I have considered the summons for rectification of grant dated 26th February 2024.
2. According to the Applicant, the name of the deceased in the certificate of confirmation of grant dated 13th December 2022 is indicated as William Alanya Onyando instead of Caleb Shadrack Ago.
3. In addition, it is asserted in deposition by Monica Aoko Ago that the Assets of the deceased as distributed in the schedule, were interchanged to the extent that the Assets/property assigned to Monica Aoko Ago were erroneously given to Rosebella Olisa Ago and vice versa.
4. Mr. Obiero counsel for the Applicant submits that the shares in the property listed are in order.
5. My own observation in this matter is that it is an extremely old matter. In addition, there was a protracted dispute which led to mediation which has aided the parties to finally settle the dispute between beneficiaries which are few but the dispute was widespread owing to the fact that the estate appeared to have many assets comprising mainly land and death gratuity of the deceased Caleb Shadrack Ago.
6. The grant has been issued twice, on 8th February 2007, and on 29th April 2019.
7. In addition, the grants as issued have had four confirmations plus the rectification of 13th December 2022. At one time, the court issued Notice to Show Cause to parties for revocation of the grant.
8. This is the last time that this court is rectifying the grant as confirmed. Parties should not take home any document which has errors and stay for over one year before returning to court to seek for correction. They appear not to be serious with the conclusion of the distribution of the estate of the deceased.
9. If that shall remain the position, and as it has been the case since there is no reason why they have taken over 1¹/₂ years to return to this court meaning they have not been interested in distributing the estate,



this court will have no other option but to revoke the grant as confirmed since the said grant is useless and inoperative and has served no purpose for which it was issued and confirmed.

10. Having given that warning shot to the parties, I allow the summons for further rectification of grant dated 26th February 2024.
11. The rectified certificate of confirmation of grant issued on 13th December 2022 is hereby recalled and rectified further to the effect that the name of the deceased intestate given as William Alanya Onyando is deleted and substituted with Caleb Shadrack Ago.
12. Secondly, the properties assigned to Monica Aoko Ago as interchanged with those given to Rosebella Olisa Ago are set aside and reviewed and in its place, substituted with an order interchanging the properties such that those assigned to Rosebella Olisa Ago shall be reassigned to Monica Aoko Ago and vice versa. The shares remain the same but with the initials H being substituted with Hectares.
13. The Administrators to distribute the estate fully within 6 months of today and to file into this court the accurate accounts as stipulated in Section 83 of the [Law of Succession Act](#). In default, or unless the period is extended by this Court, the grant as issued by this court and confirmed and further rectified now severally shall stand revoked.
14. I so order and direct a further rectified certificate of confirmation of grant to issue forthwith.
15. This Ruling to be typed and parties be given a copy thereof.
16. Subject to Section 83 of [Laws of Succession Act](#), this file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 7TH DAY OF MAY, 2024

R. E. ABURILI

JUDGE

