



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Moses Kitharari Iribi alias Moses Kitharari (Deceased) (Succession Cause 143 of 1999) [2024] KEHC 7330 (KLR) (13 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7330 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
SUCCESSION CAUSE 143 OF 1999  
TW CHERERE, J  
JUNE 13, 2024**

**BETWEEN**

**AGNES KANYUA MOSES ..... PETITIONER**

**AND**

**TABITHA KABUTHI MOSES ..... 1<sup>ST</sup> APPLICANT**

**ANJELINA KAITHI MOSES ..... 2<sup>ND</sup> APPLICANT**

**RULING**

1. I have considered the summons for rectification dated 12<sup>th</sup> March, 2024 in the light of the supporting affidavit sworn by Tabitha Kabuthi Moses (1<sup>st</sup> Applicant) on even date and annexures thereto. I have also considered the deponent's further affidavit sworn on 03<sup>rd</sup> June, 2024 and annexures thereto.
2. A green card for LR South Tharaka/Tunyai A/856 reveals that it does not exist the same having been partitioned into three portions namely LR South Tharaka/Tunyai A/2129, 2130 and 2131.
3. Clearly, this court will be acting in vain to redistribute an asset that does not exist.
4. I have additionally noticed that LR South Tharaka/Tunyai A/856 was not distributed as ordered by court vide the Certificate of Confirmation dated 06<sup>th</sup> December, 2018. In fact, the record in the form of search certificates for the resultant titles LR South Tharaka/Tunyai A/2129, 2130 and 2131 reveals that 6 of deceased's beneficiaries were disinherited and part of the estate distributed to strangers whom the 1<sup>st</sup> Applicant audaciously refers to as purchasers.
5. From the foregoing, I find that in seeking to correct the wrong they have committed without following the correct procedure of first seeking cancellation of the illegally issued titles, Applicants are abusing the court process.



6. I therefore decline to rectify the grant or lift inhibitions on LR South Tharaka/Tunyai A/2129, 2130 and 2131. Correction of names of some of the beneficiaries whose names were misspelt should be sought once their shares become available for distribution.

**DATED AT MERU THIS 13<sup>TH</sup> DAY OF *JUNE* 2024**

**WAMAE. T. W. CHERERE**

**JUDGE**

Appearances

Court Assistants - Kinoti/Munene

For Applicants -Mr. Thangichia for Thangichia M.David & Co. Advocates

