



REPUBLIC OF KENYA



**In re Estate of Joseph Thuku Gachathi (Deceased) (Succession Cause  
332 of 2009) [2024] KEHC 8111 (KLR) (Family) (7 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 8111 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 332 OF 2009  
PM NYAUNDI, J  
JUNE 7, 2024  
IN THE MATTER OF THE ESTATE OF JOSEPH THUKU GACHATHI (DECEASED)**

**RULING**

1. This ruling is with regard to Summons for Amendment of Certificate of Confirmation of Grant dated 29<sup>th</sup> November 2022 and presented under rules 49 and 73 of the [Probate and Administration Rules](#). The Application is supported the Affidavit of Serah Wairimu Thuku sworn on the same date.
2. The Application is rather straight forward, at the time of transmission it was discovered that the actual acreage of the subject parcel of land Ngenda/ Gathage/244 is approximately 5.7 acres and not 7.5 as assumed at the time of the confirmation of the grant. This fact is proved by the District Survey Office in letter addressed to Gichahi and Co Advocates and certificate of official search for the parcel of land dated 21<sup>st</sup> April 2022.
3. The Respondent has filed a replying affidavit sworn on 20<sup>th</sup> February 2022 (sic), he does not state so but it is assumed that is sworn in opposition to the Application. He does not respond to the orders sought but instead challenges the proceedings leading to the confirmation of the grant. He submits that he and other parties intend to appeal the ruling of 25<sup>th</sup> October 2018. But apart from filing the Notice of Appeal, there isn't evidence show that the Respondent has filed the record of appeal. His position is further weakend by the fact that beneficiaries have all signed the relevant forms to facilitate the subdivision of the parcel of land as prayed.
4. I have no hesitation in finding that the Application as presented is not opposed and will therefore allow it on the following terms;
  1. That the summons for confirmation of grant be amended in respect of parcel Ngenda/ Gathage/244 as follows
    - a. Serah Wairimu Thuku 1.8 acres
    - b. Tony Wataka Thuku 1.27 acres



- c. Aliet Wawira Gachathi 0.74 acres
- d. Mary Wambui Mukui 0.60 acres
- e. Debora Wanjiru Gathimba 0.60 acres
- f. Joseph Githiku 0.345 acres
- g. James Muiruri 0.345 acres

2. Each party will bear their own costs

**SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 7TH DAY OF JUNE, 2024.**

**P M NYAUNDI**

**JUDGE**

In the presence of:

Kimani h/b Gichachi Advocates for the Applicant

Advocates for the Respondent

Sylvia Court Assistant

