



REPUBLIC OF KENYA



**In re Estate of Philip Muriuki Waigiri (Deceased) (Succession Cause
1401 of 2006) [2024] KEHC 12897 (KLR) (Family) (11 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 12897 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 1401 OF 2006
PM NYAUNDI, J
OCTOBER 11, 2024
IN THE MATTER OF THE ESTATE OF PHILIP MURIUKI WAIGIRI (DECEASED)**

RULING

1. Vide Summons for Rectification of Confirmed Grant dated 31st January 2023, the Applicant herein, Catherine Gathigia Kiruki, seeks that the Certificate of Confirmed Grant be rectified on the terms set out on the face of the Application. The Application is supported by her Affidavit sworn on 31st January 2022.
2. The Administrator opposes the Application and has sworn replying affidavit on 4th May 2023.
3. The application was canvassed via written submissions.
4. The Summons is presented under the provisions of Sections 47 and 74 of the [Law of Succession Act](#) and rules 49, 63 and 73 of the Probate and Administration Rules. The beneficiaries of the Estate seek to alter the mode of distribution as affects some beneficiaries, not all the beneficiaries are affected by the proposed rectification.
5. I note that the beneficiaries affected by the proposed changes have given their consent as per signed consent dated 31st January 2022 accompanying the Summons.
6. The Administrator opposes the Application contending that as each of the beneficiaries is an adult they should hold their respective shares individually and not in the manner proposed by the Applicants. He further argues that the certificate is not defective.
7. I have noted the objections of the administrator and observe that the Applicant and affected beneficiaries are only speaking to the parts of the estate that are for transmission to them. Since they have agreed and specifically as the other beneficiaries (those not affected by the alteration) have not raised an objection, there is no basis upon which to deny them the rectification as sought.



8. It is true that under Section 74, rectification of grant is limited to where there are errors, however a court can rectify a grant under the provisions of Section 47 of the Law of Succession Act and Rule 73 of the Probate and Administration rules.
9. I observe that the Co- Administrator, Zelipha Gathingia is now deceased, to enable the surviving administrator to proceed with the Administration of the Estate, I will proceed to revoke the grant issued 11th September 2006 and direct that a fresh grant issue to John Muchiri Muriuki as the sole administrator.
10. Accordingly, these are the final orders
 - a. Grant of Letters of Administration issued herein on the 11th September 2006 is hereby revoked and a fresh grant issue to John Muchiri Muriuki as sole Administrator.
 - b. The Orders of the Court on 31st October 2018 are hereby varied and Certificate of Confirmation of Grant rectified as follows-
 - i. Item No. 5 of the Certificate of Confirmation of Grant is rectified to read Anthony Muriuki Muthee 0.37 hectares of Parcel No. Iraini/ Chehe/336
 - ii. Item No. 11 of the Certificate of Confirmation of Grant is rectified to read 16 acres of Plot No. 9 Kenjoketty Scheme LO/ 551/ 9 to be shared equally between Caroline Gathingia Muthee and Anthony Muriuki Muthee
 - iii. Items 7, 8, 9 and 10 to be rectified as follows (Plot No Kenjoketty Scheme LO/551/9)
 1. Catherine Gathingia Kiruki 5 Acres
 2. Rose Mdeizi Kiruki 4 Acres
 3. Mary Wanjiru Kariuki 4 Acres
 4. Edwin Muriuki Kiruki 3 Acres
 5. Catherine Gathingia Kiruki, Rose Mdeizi Kiruki, Mary Wanjiru Kiruki And Edwin Muriuki Kiriku to hold jointly 0.8 acres comprising of homestead and family graveyard.
 - c. The Administrator to finalise transmission within 6 months and furnish final accounts of administration of the estate in accordance with Section 83 (g) of the Law of Succession Act
 - d. Mention on March 12, 2025 to confirm compliance
 - e. Each party will bear their own costs

It is so ordered

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 11TH DAY OF OCTOBER, 2024.

P. NYAUNDI

JUDGE

In presence of: -

Fardosa Court Assistant

Marube Advocate for Applicant



