



**In re Estate of M’ibiiri Karunya (Deceased) (Succession Cause  
33 of 2018) [2023] KEHC 20902 (KLR) (20 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20902 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
SUCCESSION CAUSE 33 OF 2018  
TW CHERERE, J  
JULY 20, 2023**

**IN THE MATTER OF**

**MUNYI IBIIRI ..... 1<sup>ST</sup> ADMINISTRATOR  
SILAS KIREMA M’IBIIRI ..... 2<sup>ND</sup> ADMINISTRATOR  
ESTHER MWENGWA M’IBIIRI ..... 3<sup>RD</sup> ADMINISTRATOR**

**RULING**

1. By summons dated June 14, 2023, Munyi Ibiiri and Silas Kirema M’Ibiri (1<sup>st</sup> and 3<sup>rd</sup> administrators) pray for the following orders:
  1. Rectification of names of the beneficiaries to match the names on the identity cards
  2. That the Deputy Registrar of the court signs transmission documents on behalf of Esther Mwengwa M’Ibiri (3<sup>rd</sup> administrator) who it is claimed has declined to sign
  3. The share for Esther Mwengwa M’Ibiri (3<sup>rd</sup> administrator) and Dominic Kithera Memeu be partitioned so that Esther Mwengwa M’Ibiri gets 2.15 acres and Dominic Kithera Memeu 2 acres

**Analysis And Determination**

2. I have considered the summons and the supporting affidavit sworn by the 1<sup>st</sup> administrator on June 11, 2023 together with a copy of the certificate of confirmation of grant dated October 21, 2020, copies of identity cards and consent signed by all beneficiaries except Esther Mwengwa M’Ibiri annexed thereto.



3. Rectification of grants is provided for in section 74 of the *Law of Succession Act*, cap 160, Laws of Kenya and rule 43(1) of the *Probate and Administration Rules*. Section 74 provides as follows:

74. Errors may be rectified by court:

“Errors in names and descriptions, or in setting forth the time and place of the deceased’s death, or the purpose in a limited grant, may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly.”

Rule 43(1) provides as follows:

“Where the holder of a grant seeks pursuant to the provisions of section 74 of the Act rectification of an error in the grant as to the names or descriptions of any person or thing or as to the time or place of death of the deceased or, in the case of a limited grant, the purpose for which the grant was made, he shall apply by summons in form 110 for such rectification through the registry and in the cause in which the grant was made.”

4. From the language of section 74 of the *Law of Succession Act* and rule 43(1) of the *Probate and Administration Rules*, the scope of rectification of grants of representation is limited to errors in names and descriptions, or in setting forth the time and place of the deceased’s death, or the purpose in a limited grant. I may add that such other minor errors in that genre could also be rectified.
5. The copies of identity cards reveal that the names of Benjamin Muchiri M’Ibiri, Francis Chui M’Ibiri, Silveria Kambura, Esther Mwangwa M’Ibiri, Esther Karimi Ibiri, David Mwirigi Kinoti and Timothy Murithi Kinoti were not correctly captured on the certificate of confirmation of grant dated October 21, 2020 and the application for rectification is in the circumstances merited.
6. The provisions of section 83 of the *Law of Succession Act* cap concerning the duties of administrators was enunciated in *Re Estate of Wilfred Munene Ngumi (deceased)* [2020] eKLR where the court stated:

“Section 83(g) of the Act mandates administrators of an estate to, within six months of confirmation of grant or longer period as the court may allow, complete the administration of the estate, and to produce to the court a full and accurate account of the complete administration.

This undertaking cannot be done unless the necessary documents are executed by the parties...”

7. This application was duly served on the 3<sup>rd</sup> administrator’s advocate Thangichia McDavid & Company Advocates on June 19, 2023. Esther has neither explained her failure to sign the transmission documents nor opposed the partitioning of the joint share between her and Dominic Kithera Memeu so that she gets 2.15 acres and Dominic Kithera Memeu 2 acres.
8. The transmission forms are necessary in facilitating the execution of the court’s order on distribution. This court has inherent powers to prevent an abuse of its process and for that reason, I find that it would be in the interest of justice that the Deputy Registrar of the court signs the transmission documents on behalf of the 3<sup>rd</sup> administrator. It has not been demonstrated that the partitioning of the share for Esther Mwangwa M’Ibiri (3<sup>rd</sup> administrator) and Dominic Kithera Memeu be so that Esther Mwangwa



M'Ibiri gets 2.15 acres and Dominic Kithera Memeu 2 acres will occasion any injustice to any of the parties.

9. It is therefore hereby ordered as follows:

1. The names of Benjamin Mucuru M'Ibiiri, Francis Ncui M'Ibiiri, Seriberia Kabura M'Ibiiri, Esther Mwangwa M'Ibiiri, Esther Karimi, David Mwiri and Timothy Murithi on the certificate of confirmation of grant dated October 21, 2020 shall be rectified to read Benjamin Muchiri M'Ibiiri, Francis Chui M'Ibiiri, Silveria Kambura, Esther Mwangwa M'Ibiri, Esther Karimi Ibiri, David Mwirigi Kinoti and Timothy Murithi Kinoti respectively
2. That the Deputy Registrar of the court is authorized to sign transmission documents on behalf of Esther Mwangwa M'Ibiri (3<sup>rd</sup> administrator)
3. The share for Esther Mwangwa M'Ibiri (3<sup>rd</sup> administrator) and Dominic Kithera Memeu shall be partitioned so that Esther Mwangwa M'Ibiri gets 2.15 acres and Dominic Kithera Memeu 2 acres
4. These orders be served on the 3<sup>rd</sup> respondent through her advocate Thangichia David & Company Advocates
5. Mention on October 26, 2023 to confirm distribution

**DATED AT MERU THIS 20<sup>TH</sup> DAY OF JULY 2023**

**WAMAE T. W. CHERERE**

**JUDGE**

