



REPUBLIC OF KENYA



In re Estate of Amos Kirigwi Mwiranire (Deceased) (Succession Cause 549 of 1990) [2023] KEHC 19666 (KLR) (Family) (3 July 2023) (Ruling)

Neutral citation: [2023] KEHC 19666 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 549 OF 1990
EKO OGOLA, J
JULY 3, 2023
IN THE MATTER OF THE ESTATE OF AMOS KIRIGWI
MWIRANIRE (DECEASED)**

RULING

1. Before the court is a summons application dated February 22, 2023 where the applicant prays for the following orders:
 1. That the certificate of confirmation of grant issued on July 19, 2022 be rectified to allow the name of one of the dependant of the deceased Lucy Wanjiru to read as Lucy Wanjiru Mwangi as per National Identity Card
 2. That the costs of this application be provided for
2. The application is supported by the affidavit of David Githinji Kirigwi sworn on February 22, 2023.
3. The applicant seeks to correct the confirmation of grant issued on July 11, 2022 so that the name of one of the dependants of the deceased reads Lucy Wanjiru Mwangi and not Lucy Wanjiru. According to him when the certificate of confirmation was presented at Nyandarua lands office, it was revealed that the name of the dependant Lucy Wanjiru did not conform with the name on the identity card which is Lucy Wanjiru Mwangi.
4. Section 74 of the [Law of Succession Act](#) provides that: -

"Errors in names and descriptions, or in setting out the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the court."

Rule 43(1) of the [Probate and Administration Rules](#) provides that: -

"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 the 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."

5. Rectification of a grant of Letters of Administration is therefore limited to matters set out under Section 74 of the *Law of Succession Act*. As per this provision rectification of grant deals specifically with correction of error which the court may order without changing the substance of the grant. This includes errors in names, description of any person or thing or an error as to the time or place of death of the deceased or the purpose for which a limited grant was issued. An error which is visualized under the section is a mistake which may occur on the face of the grant like typing errors in names of persons or the things. A rectification seeking to include properties which were not in the schedule of the assets when filing the cause and not included in the grant may not fit in the matters provided under section 74 of the Act.
6. The name that appears in the confirmation of grant is Lucy Wanjiru and the name as appears in the copy of the identity card provided is Lucy Wanjiru Mwangi. This issue falls under the category of errors that can be rectified under Section 74.
7. In the circumstances I order that the confirmation of grant dated March 14, 2012 and rectified on July 19, 2022 be rectified to accommodate the name of Lucy Wanjiru to read Lucy Wanjiru Mwangi as it appears on the identity card.
8. The summons application dated February 22, 2023 is hereby allowed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 3RD DAY OF JULY 2023.

E.K. OGOLA

JUDGE

