



**In re Estate of Charles Njuguna Thamani (Deceased) (Succession Cause 1180 of 1988) [2023] KEHC 22090 (KLR) (Family) (3 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 22090 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 1180 OF 1988  
EKO OGOLA, J  
JULY 3, 2023**

**RULING**

1. What is before this court is the summons for rectification of grant dated March 7, 2023. The administrator of the estate of the late Charles Njuguna Thamani, one Mr Paul Muiruri Gichuiya prays for the following:-
  1. That the certificate of confirmation of grant issued to Paul Muiruri Gichuiya and Simon Munyua Njuguna in this matter on the April 30, 2001 be rectified.
  2. That the name of co-administrator Simon Munyua Njuguna be removed and substituted with Ephraim Gichuiya Njuguna as administrator.
  3. That the administrator in the grant be substituted with Paul Muiruri Gichuiya and Ephraim Gichuiya Njuguna.
  4. That the beneficiary name Veronica Wambui Thamani (deceased) be substituted and replaced by Timothy Maina Thamani and be given plot number 112 also known as land reference number 1029, Ndemi
  5. That the beneficiary Wanjau Njuguna (deceased) be substituted and replaced by Jefferson Weru Wanjau, Maina Wanjau, and Charles Njuguna Wanjau.
  6. That the plot number 63, Kanyagi is now known as land reference number Nyandarua/Kanyagia/63, be divided and distributed into plots as follows:-
    - a. Maina Wanjau land reference number Nyandarua/Kanyagia/1102 out of land reference number Nyandarua/Kanyagia/63
    - b. Charles Njuguna Wanjau land reference number Nyandarua/Kanyagia/1103 out of land reference number Nyandarua/Kanyagia/63



- c. Jefferson Weru Wanjau land reference number Nyandarua/Kanyagia/1104 out of land reference number Nyandarua/Kanyagia/63
  - d. Ephraim Gichuiya Njuguna land reference number Nyandarua/Kanyagia/1105 out of land reference number Nyandarua/Kanyagia/63
  - e. Lucy Wairimu Maina Land Reference Number Nyandarua/Kanyagia/1106 out of Land Reference Number Nyandarua/Kanyagia/63
  - f. Annah Hiuko Njuguna land reference number Nyandarua/Kanyagia/1107 out of land reference number Nyandarua/Kanyagia/63
  - g. Simon Munyua Njuguna land reference number Nyandarua/Kanyagia/1108 out of land reference number Nyandarua/Kanyagia/63
7. That the cost of this application be in the cause.
2. The summons are supported by the sworn affidavit of Paul Muiruri Gichuiya. He deposed that the co-administrator of the estate Simon Munyua Njuguna passed away on August 25, 2021, hence it is necessary for his name to be removed from the grant and substituted with Ephraim Gichuiya Njuguna. Further to this, other beneficiaries of the estate have passed away and their dependents request for the deceased property to be redistributed amongst them.

### **Determination**

3. I have considered this summons for rectification of grant and the affidavits in support thereto. Rectification of grants is provided for by section 74 of the [Law of Succession Act](#), cap 160, Laws of Kenya which provides as follows:-
- “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.”
4. Rule 43(1) of the [Probate and Administration Rules](#) further stipulate that:-
- “43(1) 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 in form 110 for such rectification through the registry and in the cause in which the grant was issued.”
5. From the aforementioned provisions, rectification is allowed in order to correct a misdescription of a property or to correct a name which has not been fully or properly described in the grant.
6. I have perused the amendments intended to be made and the rectifications sought to be made by this summons. The amendments sought to be made are central and far reaching as it is proposed to replace the beneficiaries of the estate. There is intention to alter not only the beneficiaries to the estate but also the mode of distribution of the estate. This is not what was envisaged by section 74. Rectification of a grant is only permissible to cure minor errors, mistakes and irregularities in the grant. Rectification cannot be used to fundamentally alter the character of the grant.



7. The upshot is that the summons for rectification of grant dated March 7, 2023 lack merit and is dismissed in its entirety.
8. The administrator has the option to apply for a review of the confirmed grant under order 45 of the *Civil Procedure Rules*.
9. Cost of the application be in the cause.

It is so ordered.

**DATED and DELIVERED at NAIROBI this 3rd day of July 2023**

**E.K. OGOLA**

**JUDGE**

**In the presence of:**

**Mr. Mshindi for the Applicant**

**Gisiele Muthoni Court Assistant**

