



In re Estate of Julian Ochieng Othieno (Deceased) (Succession Cause 116 of 2007) [2023] KEHC 23504 (KLR) (6 October 2023) (Ruling)

Neutral citation: [2023] KEHC 23504 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 116 OF 2007
RE ABURILI, J
OCTOBER 6, 2023**

**IN THE MATTER OF
DELANO AKWIR ODONGO APPLICANT**

RULING

1. I have considered the Summons for rectification of grant dated July 10, 2023 and the supporting affidavit.
2. It is deposed that during confirmation of grant, one of the beneficiaries was omitted in the list of distribution and that there is an error in the description of the assets in the certificate of confirmation of grant which from the record is dated June 22, 2012.
3. However, I observe that the allegation that there was misdescription of the assets in not correct because in the affidavit in support, the Petitioner claims that North Ugenya/Uyundo/349 and North Ugenya/Sega/1215 and Scheme Songor 345 which were listed in the affidavit in support of the Petition for letters of administration intestate P&A was not included in the certificate of confirmation.
4. The certificate of confirmation of grant usually bear the properties disclosed in the schedule of distribution.
5. In the supporting affidavit sworn on April 19, 2012 by the Petitioner, he never included the said properties for distribution to the beneficiaries hence there is no way the court could have included it in the certificate of confirmation of grant.
6. In addition, I have not seen any consent of the other beneficiaries consenting to the now proposed distribution where the Petitioner is to benefit alone from the three properties which were left out of the confirmed grant.
7. It is unacceptable that a petitioner omits some properties from the distribution list then he emerges later to share to himself the said properties without the consent of the other beneficiaries. I decline the application dated 10th July 2023 and dismiss it.



8. The Petitioner to file a fresh application which must be supported by consents or affidavits of all the other beneficiaries for consideration.
9. The fresh application shall be lodged in a Miscellaneous Succession Cause for consideration by this court as reopening of this 2007 file resuscitates very old matters which create unnecessary and unreasonable and unending backlog to this court.
10. The Registry to notify the Applicant.
11. This file is closed. I so order.

Dated, Signed And Delivered At Kisumu This 6th day of October, 2023

R. E. ABURILI

JUDGE

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