



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

SUCCESSION CAUSE NO.278 of 2002

IN THE MATTER OF THE ESTATE OF THE LATE KARIUKI MAINA alias KARIUKI S/O MAINA(DECEASED)

JOHNSON MAINA GITHIRA

WILLIAM KAMAU GITHIRA

FRANCIS IRUNGU GITHIRA.....APPLICANTS/BENEFICIARIES

VS

NGACHA GITHIRA.....PETITIONER

RULING

1. The application is dated the 2/07/2020 and is premised under the provisions of Rule 43(1) of the Probate and Administration Rules; the applicants seek to correct the typographical errors in the names of the administrator of the estate; and also seek a review of the Order issued on the 23/08/2013 so as to remove the name of a deceased beneficiary and to substitute themselves in place of the deceased beneficiary;
2. The application is supported by the grounds on the face of the application and on the Supporting Affidavit dated 2/07/2020 made by **WILLIAM KAMAU GITHIRA**; therein he depones that he is a co-administrator of his late mother's estate and has been duly authorized by his brothers who are also co-administrators to make the affidavit;
3. The applicant deposes that their mother **WAMUYU GITHIRA** passed away on the 5/01/2016 and prays that her name be substituted with the applicants names on the list of the beneficiaries to the estate of the deceased, herein; a copy of the Death Certificate and a copy of the **LIMITED GRANT OF LETTERS OF ADMINISTRATION AD LITEM** are annexed in support of the application;
4. They further seek for the correction of the typographical errors in the name of the petitioner on the Certificate of Confirmation of Grant issued on 23/08/2013 to conform with the name on the **GRANT OF LETTERS OF ADMINISTRATION DE BONIS NON** issued on the 28/10/2011; that two names appear on the Certificate of Confirmation of Grant, namely **WANJUGU GITHIRA and WAMUYU GITHIRA** whereas on the **GRANT OF LETTERS OF ADMINISTRATION DE BONIS NON** it only bears one name which is that of **NGACHA GITHIRA**;
5. The correct position is that the **GRANT OF LETTERS OF ADMINISTRATION DE BONIS NON** was issued in the sole name of the petitioner **NGACHA GITHIRA** and not jointly as reflected on the Certificate of Confirmation of Grant issued on 23/08/2013;
6. The applicants pray that the Certificate of Confirmation of Grant be corrected to include the name of the correct administrator and that their names be also included as beneficiaries in place of their deceased mother who was a beneficiary, herein;
7. The applicable law is found at Section 74 of the Law of Succession Act and Rule 43(1) and 63 of the Probate and Administration Rules – ; Section 74 of the Act and Rule 63 of the Probate and Administration Rules allow a party who has discovered new and important matter(s) or evidence after the orders were made to apply for review to the court that issued the orders; Rule 43(1) of the Probate and Administration Rules allows for the correction of errors provided that it does not affect the substance of the Grant;
8. Upon reading the application and hearing the submissions of counsel appearing for the applicants, this court is satisfied that the name of the petitioner was erroneously captured on the **CERTIFICATE OF CONFIRMATION OF GRANT** issued on 23/08/2011 and that the prayers sought for review and rectification of the afore-going Order are as envisaged under the aforesaid provisions of Law; the application is properly supported by copies of the Death Certificate, the **LIMITED GRANT OF LETTERS OF ADMINISTRATION AD LITEM**, the Certificate of Confirmation of Grant and the **GRANT OF LETTERS OF ADMINISTRATION DE BONIS NON**;
9. For those reasons this court finds that this is a proper case for granting of the order for review and rectification; the application is therefore

found to be meritorious and is hereby allowed.

10. The order granted on the 23/08/2011 is hereby reviewed and rectified as follows;

(i) The name of WAMUYU GITHIRA (deceased) be and is hereby substituted with the names of JOHNSON MAINA GITHIRA, WILLIAM KAMAU GITHIRA and FRANCIS IRUNGU GITHIRA as beneficiaries to her portion in the estate of the deceased;

(ii) The name of the petitioner on the CERTIFICATE OF CONFIRMATION OF GRANT issued on 23/08/2011 be and is hereby corrected to read NGACHA GITHIRA instead of WANJUGU GITHIRA and WAMUYU GITHIRA.

Orders Accordingly

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NYERI THIS 9TH DAY OF JUNE, 2021.

HON. LADY JUSTICE A. MSHILA

JUDGE