

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI LAW COURTS

SUCCESSION CAUSE NO. 203 OF 1987

IN THE MATTER OF THE ESTATE OF THE LATE JUSTUS EZEKIEL MBOGO (DECEASED)

RULING

This Summons seeks to have the Certificate of Confirmation of Grant issued on 7th October 2014 be rectified so as to accommodate the Judgment of the Court of Appeal in Civil Appeal No. 88 of 2017 and costs in the cause. The Summons is supported by the Affidavit of Anne Micere Mbogo, the Administratrix of the Estate of the late Justus Ezekiel Mbogo. The gist of the averments in the Supporting Affidavit are that it has become necessary to rectify the confirmed grant to align it to the Judgment in Civil Appeal No. 88 of 2017.

Through the submissions by Mr. Mogikoyo for the Applicant this court was told that the Appellant in Civil Appeal No. 88 of 2017, Thomas Kanake Guandaru, was the objector entitled to the property known as L. R No. 4418/2 which the estate had taken from him. Upon the Appeal being determined this property was restored to him. This made it necessary to have the Confirmation of Grant dated 26th November 1993 to restore this property to Thomas Kanake Guandaru and re-distribute the remaining property to the beneficiaries as per the consent of the beneficiaries dated 17th December 2020.

I have considered the Summons and the Supporting Affidavit. I have also read the Judgment of the Court of Appeal in Civil Appeal No. 88 of 2017. I have also seen the Consent dated 17th December 2020 signed by the five (5) beneficiaries. In the Consent, the beneficiaries propose to share the remaining property as proposed therein excluding property known as L.R No. 4418/2. There is no objection to this Summons and I therefore allow it. The property of the estate of the deceased shall be shared out as contained in the Consent dated 17th December 2020. This distribution excludes property known as L.R. No. 4418/2. The Certificate of Confirmation dated 26th November 1993 is hereby rectified to reflect these changes. Orders to issue accordingly.

Dated, signed and delivered this 21st July 2021.

S. N. MUTUKU

JUDGE