



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO.213 OF 1997

**IN THE MATTER OF THE ESTATE OF PERMIUS M'MUGAMBI Alias PERMINUS
MUGAMBI RINTURI Alias M'MUGAMBI RINTURI Alias P.M MUGAMBI (DECEASED)
CAROLINE GACHERI MURERWA.....APPLICANT**

VERSUS

**FLORENCE KINAITORE IMATHIU.....PETITIONER/1ST RESPONDENT
LYDIA KURI MURERWA.....2ND RESPONDENT
ERIC MUGUNA MURERWA.....3RD RESPONDENT
STEPHEN MWONGERA RINTURI.....4TH RESPONDENT**

AND

TABITHA MWARI ITWARUCHIU.....INTERESTED PARTY

RULING

1. The application I am called upon to determine is dated 3/3/2021, brought pursuant to Rule 43(1) of the Probate and Administration Rules. In it, the petitioner/1st respondent, Florence Kinaitore Imathiu, seeks rectification of the certificate of confirmation of grant in the following respects:- inclusion of Land Parcel No. NTIMA/IGOKI/1812 and the same to go to Festus Guantai Mugambi; rectification of the name of the deceased herein to read **Perminus M'Mugambi Alias Perminus M'Mugambi Rinturi Alias M'Mugambi Rinturi Alias Mugambi Rinturi Alias P.M Mugambi** instead of **Perminus M'Mugambi Alias Perminus M'Mugambi Rinturi Alias M'Mugambi Rinturi Alias P.M Mugambi**.
2. The application is supported by the affidavit of the petitioner sworn on even date and grounds set out therein. She argues that NTIMA/IGOKI/1812, which was inadvertently left out, ought to be included so that administration of the estate can be completed. She further avers that they are all in agreement that the said property should go to Festus Guantai Mugambi absolutely. She further wishes to have the name of the deceased rectified, so that it conforms to the name indicated on the title to the said property. The application was not opposed by as intimated to court by both Mr Muthomi and Miss Kaunyangi.
3. On 4/8/2021, counsels for the applicant and the interested party intimated to court that they would not be opposing this application at all. This being a family matter, civil claim by nature, the dispute belongs to the parties and the court cannot infer a dispute if parties say there is a consensus. I have borne in mind the fact that rectification of a grant under **Section 74 of the Law of Succession and Rule 43(1) of the Probate and Administration rules** is in respect of errors and mis-descriptions only. see ***Re Estate of Njagi Rurima (Deceased) [2020] eKLR. the estate.***
4. The court is satisfied with the explanation on the need to rectify the name of the deceased to align with the name on the title to NTIMA/IGOKI/1812. It has equally been established that the said property was inadvertently left out of the schedule for distribution. It is undisputed that the said property formed part of the deceased estate as evidenced by the annexed certificate of official search. It was further confirmed that all the beneficiaries were agreeable to the proposed rectification. To that end, I invoke the provisions of section 47 of the Act and accordingly allow the application dated 3/3/2021 in its entirety and as prayed.

JUDGE