



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NUMBER 810 OF 2013

IN THE MATTER OF THE ESTATE OF BERNARD KASIRE SADERA

LUCY WANJIKU SADERA.....PETITIONER/APPLICANT

R U L I N G

1. The application before me is the Notice of Motion dated 3rd October, 2019 brought under **Section 47, 48 & 74** of the **Law of Succession Act, Order 51 rule 1** of the **Civil Procedure Rules and Other enabling laws.**

It seeks orders:-

1) Spent

2) That the Honourable Court be pleased to order the transfer of this file to Narok High Court for purposes of filing an application for rectification of a grant of letters of administration issued to the petitioner herein above at Nakuru on 27th February, 2014.

2. The grounds for the application are set out on the face of the application.

a) That this succession cause was filed before this court in the year 2013 when the court in Narok lacked jurisdiction.

b) That this matter has been heard and grant of letters of administration confirmed but the same requires to be rectified.

c) That the last known place of residence of the (deceased) above is Narok

d) That asset and all beneficiaries of the deceased are all in Narok.

and the affidavit of Lucy Wanjiku Sadera sworn on 3rd October, 2019.

3. The main ground for the application is that when the petition was filed in 2013 the High Court at Narok did not have jurisdiction, that it has since been clothed with jurisdiction, that all the properties are within Narok, and the deceased's last known residence was Narok.

4. *Should this matter be transferred to High Court of Kenya at Narok?*

5. First of all it is not that the High Court at Narok did not have jurisdiction, it had not been established. It was perhaps the subordinate court that did not have the requisite jurisdiction.

6. The grant was made out to Lucy Wanjiku Sadera on 27th February, 2014. Certificate of Confirmation of the grant was issued on 27th June, 2016. The matter is essentially finalized. Why would any party wish to have the file transferred for an application for rectification, essentially a correction of errors, away from the court that may have made those errors or inadvertently overlooked them? It does not make sense at all. The only sense would be to file that application for rectification before this court so as to finalise the matter once and for all.

7. The application to transfer the matter at this stage is denied. No orders as to costs.

Dated, delivered and signed at Nakuru this 16th day of January, 2020.

Mumbua Matheka

Judge

In the presence of

..... Court Assistant

Applicant

Respondent