



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KERUGOYA**

**SUCCESSION CAUSE NO.25 OF 2017**

**IN THE ESTATE OF DAVID KARIMI KANEKENI.....DECEASED**

**AND**

**MARY WAMBUI KARIMI.....1<sup>ST</sup> PETITIONER**

**JAMES MARK NGARI KARIMI.....2<sup>ND</sup> PETITIONER**

**RULING**

1. The applicant has filed an application dated 14/12/2018 seeking rectification of the certificate of confirmation of grant issued on 21/11/2018 to correct an error in the KCB Bank account to read No. xxxxxxxxxxx instead of No. xxxxxxxxxxx.

**Issues arising;**

**1. Rectification of grant Section 74 of the Law of Succession Act provides:**

*Errors in names and descriptions, or in setting out the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the court.*

**Rule 43(1) of the Probate and Administration Rules provides:**

*Where the holder of a grant seeks pursuant to the provisions of section 74 of the Act rectification of an error in the grant as to the names or descriptions of any person or thing or as to the time or place of the death of the deceased, or in the case of a limited grant, the purpose for which the grant was made, he shall apply by summons.*

**2. In the matter of the estate of Geoffrey Kinuthia Nyamwinga (deceased) [2013] eKLR**

The court stated;

**The law on rectification or alteration of grants is Section 74 of the Law of Succession Act and Rule 43 of the Probate and Administration Rules..... What these provisions mean is that errors may be rectified by the court where they relate to names or descriptions, or setting out of the time or place of the deceased's death. The effect is that the power to order rectification is limited to those situations, and therefore the power given to the court by these provisions is not general.....**

3. In this case, the applicant seeks to rectify the bank account number wherein the fifth number had been erroneously indicated as 3 instead of 5. Rectification of grant applies to correct errors which can be done without affecting the substance of the grant. These are errors in names, descriptions or on setting out the time and place of the deceased death or the purpose of a limited grant. Rectification of one figure in the description of a bank account is correction of an error which is envisaged under **Section 74 of the Law of Succession Act and Rule 43 of Probate and Administration Rules**.

I find that the application has merits and is allowed. I order that the account number be rectified as prayed.

**Dated at Kerugoya this 14<sup>th</sup> February 2019.**

**L. W. GITARI**

**JUDGE**