

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 261 OF 2003

IN THE MATTER OF THE ESTATE OF GILBERT KIRINGO RUKARIA (DECEASED)

FAITH KAGWIRIA KIRINGO.....APPLICANT

VERSUS

GEDIEL KIRIKI KIRINGO.....PETITIONER

MARY NKATHAOBJECTOR

LUCY NKIROTE.....OBJECTOR

R U L I N G

1. This is a ruling on three applications dated 17/9/2019, 19/9/2019 and 2/10/2019, respectively. On 17/9/2019, **Stephen M’Ikunyua M’Imathiu** filed a Summons for the rectification of the Certificate of confirmation of grant. He sought that he be substituted in the place of **Susan Mukomunene Ikunyua**. He stated that the said **Susan Mukomunene Ikunyua** was his wife and a beneficiary but had died on 16/12/2005.
2. Similarly, on 19/9/2019 **Margaret Kaguri M’Ikiba** took out a Summons seeking to be substituted in the place of **John Mwirigi Kiringo**. She contended that the said **John Mwirigi** was her husband but had died on 24/5/2016.
3. Finally, on 2/10/2019, **Faith Kagwiria Kiringo** took out a Summons seeking that the land registrar be ordered to dispense with the production of the original title deed for land parcel **LR NO. NYAKI/KITHOKA/1909** and that the Deputy Registrar be authorized to sign all the requisite documents in order to the effect the confirmed grant instead of the petitioner **Gediel Kiriimi Kiringo**.
4. The latter application was based on the grounds on the face of it and on the supporting affidavit of **Faith Kagwiria Kiringo**. She contended that the petitioner had refused/declined to surrender the original title for **LR NO. NYAKI/KITHOKA/1909** which had made the implementation of the said grant difficult.
5. On the issue of rectification, both **Stephen M’Ikunyua M’Imathiu** and **Margaret Kaguri M’Ikiba** are seeking to be substituted in the place of their spouses who are now deceased. They were beneficiaries of the estate and had portions distributed to them. The Court is alive 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.
6. However, this does not affect the jurisdiction of this Court under **section 47 of the Act** from making such orders as are necessary to meet the ends of justice. In the present case, I am satisfied that the grant should be rectified as sought by the two applicants.
7. As regards the application by **Faith Kagwara Kiringo**, the same was not opposed. Her allegations that the administrator was delaying the effecting of the grant were not denied. Court orders are not made in vain. They are meant for a purpose which must be achieved. In this regard, I allow the application.
8. Accordingly, all the applications are allowed as prayed.

DATED and **DELIVERED** at Meru this 11th day of December, 2019.

A. MABEYA

JUDGE