



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NUMBER 81 OF 2002

ELIZABETH WAIRIMU THIMBA & OTHERS.....PETITIONERS

VERSUS

JAMES MUNENE THIMBA.....1ST APPLICANT

MARY WAIRIMU KIRIMI.....2ND APPLICANT

RULING

1. This ruling is in respect of the application dated 9/4/2018. Vide the said application James Munene Thimba seeks orders;

1. THAT the certificate of confirmation of grant be rectified as follows:-

a. The names of the beneficiary known as JAMES MUNENE THIMBA be corrected and rectified to read JAMES MUNENE MIRITI.

2. THAT costs of this application be in the cause.

2. The application is supported by his affidavit sworn on the 9/4/2018 and he has listed five (5) grounds upon which the application is based namely;

1. THAT the applicant's biological father was known as JOSEPH WANGERA THIMBA. Therefore the applicant was all along named JAMES MUNENE THIMBA.

2. THAT when this succession cause commenced, the applicant used the names JAMES MUNENE THIMBA since they are the names he was called by and which connected him with the estate of the deceased.

3. THAT at the time when he was taking his identity card, the identity card of his father was required and the only one which was available was the identity card of the man who married his mother after his father died. The other man's name was Miriti.

4. THAT the reference fact of the confusion in the names was inadvertently not raised when the matter was in progress. However it did not affect the character of the applicant as a beneficiary.

5. THAT it is only fair that the grant be rectified to reflect the applicant's names as JAMES MUNENE MIRITI.

3. The application is not opposed and indeed Mr. Situma counsel for the administrators through Mr. Ndung'u indicated in Court that the application was not opposed.

I have had occasion to consider the application, the supporting affidavit and grounds relied on. I have further had the opportunity to acquaint myself with these proceedings that commenced almost two (2) decades ago.

5. I have appraised myself of the various orders of Court in respect of the administration of the estate herein.

6. It is quite obvious that to give effect to the orders of Court on distribution, the names of the applicant need to be rectified. The reason given for the initial names presented in the petition is plausible.

7. Such rectification will not be prejudicial to any party but will go along way in giving effect to the bequest that the applicant is entitled to from the estate as per the orders of Court.

8. Accordingly, I find merit in the summons for rectification of grant dated 9/4/2018. I allow the same and make the following orders;

1. The names of the beneficiary known as James Munene Thimba be and are hereby corrected to read James Munene Miriti.
2. The costs of this application be in the cause.

Dated and Delivered at Nakuru this 11th day of October, 2018.

A. K. NDUNG'U

JUDGE