



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**SUCCESSION CAUSE NUMBER 413 OF 2002**

**IN THE MATTER OF THE ESTATE OF HABEL NJUU MBOGO (DECEASED)**

MARY NYOKABI NJUU.....1<sup>ST</sup> APPLICANT

PRISCILLA WARUGURU NJUU.....2<sup>ND</sup> APPLICANT

**RULING**

1. The application before Court is the summons for rectification of grant dated 22/1/2018 vide this summons, the administrators of the estate of Habel Njuu Mbogo seek orders;

1. **THAT** the rectified certificate of confirmation of grant issued to the said MARY NYOKABI NJUU GACHOKA and PRISCILLA WARUGURU NJUU on 23<sup>rd</sup> June, 2016 be rectified in the following respect as provided for by Rule 43 (1) of the probate and administration rules and more specifically as follows:-

2. **THAT** title number KIAMBOGO/KIAMBOGO 2/197 erroneously bequeathed to Priscilla Njeri, Cifilah Wanjiku, Elias Mbogo, Fine Njeri Njuu, Veronicah Wairimu Njuu, Mary Wairimu Njoroge and Lilian Wairimu Njuu be bequeathed to Irene Wanjiku Njuu, Nancy Wambui Njuu, John Kirigwi Njuu, Agnes Wangari Njuu, Jane Wangeci Njuu, Lucy Wanjiru Njuu, Teresiah Wanjiru Njuu, Simon Wang'onde Ndanya, Esther Wanja Njuu, Mary Nyokabi (holding in trust for Tabitha Wambui Njuu and Hellen Wangari Njuu) and Worldwide Gospel Church represented by the following trustees namely, Sammy Njau, Luka Njoroge and Harrison Kariuki Gathumba.

3. **THAT** title number KIAMBOGO/KIAMBOGO BLOCK 2/193 erroneously bequeathed to Irene Wanjiku Njuu, Nancy Wambui Njuu, John Kirigwi Njuu, Agnes Wangari Njuu, Jane Wangeci Njuu, Lucy Wanjiru Njuu, Teresia Wanjiru Njuu, Simon Wang'onde Ndanya, Esther Wanja Njuu, Mary Nyokabi (holding in trust for Tabitha Wambui Njuu and Hellen Wangari Njuu) and Worldwide Gospel Church represented by Sammy Njau, Luka Njoroge and Harrison Kariuki Gathumba (trustees) be bequeathed to Priscilla Njeri, Cifilah Wanjiku, Elias Mbogo, Fine Njeri Njuu, Veronicah Wairimu Njuu, Mary Wairimu Njoroge and Lilian Wanjiru Njuu.

4. **THAT** FINE NJERI NJUU whose name was erroneously omitted to inherit a portion measuring 0.6 hectares excised from title number KIAMBOGO/KIAMBOGO BLOCK 2/56 where the homestead is erected.

5. **THAT** PLOT NO. GICHUA TRADING CENTRE/124 which forms part of the deceased's estate was erroneously omitted. The same be included as part of the deceased's estate and be bequeathed to JANE WACHECHI NJUU.

6. **THAT** to rectify title number BAHATI/KABATINI BLOCK 1/227 to BAHATI/KABATINI BLOCK 1/2227.

7. **THAT** upon granting of prayers 2 and 3 to redistribute parcel no. KIAMBOGO/KIAMBOGO BLOCK 1/193 as follows:-

- i. Priscilla Njeri Njuu - 2.25 acres
- ii. Lilian Wanjiru Njuu - 1.5 acres
- iii. Veronica Wairimu - 1.5 acres
- iv. Mary Wairimu - 0.75 acres

- v. Elias Mbogo Wanjiru - 1.5 acres
- vi. Fine Njeri Njuu - 1.75 acres
- vii. Cifila Wanjiku - 1.75 acres

**8. THAT parcel number KIAMBOGO/KIAMBOGO BLOCK 1/197 be distributed as follows;**

- i. Nancy Wambui Njuu - ½ acre
- ii. Jane Wangeci Njuu - 1½ acres
- iii. Lucy Wanjiru Njuu - 1 acre
- iv. Agnes Wangari Njuu - 1¼ acres
- v. Irene Wanjiku Njuu - 1¼ acres
- vi. John Kirigwi Njuu - 1 acre
- vii. Sammy Njau Mwangi, Luke Njoroge Ndirangu & Harris Kariuki Gathimbi (Trustees of Worldwide Gospel Church of Kenya – Shiloh Worship Centre - ¼ acre
- viii. Esther Wanja Njuu - ¾ acre
- ix. Esther Wanja Njuu & Simon Wangendu Ndanya - ¼ acre
- x. Mary Nyokabi – to hold in trust for Tabitha Wambui Njuu - 2 acres
- xi. Teresiah Wanjiru Njuu - 1 acre

**9. THAT costs of this application be provided for.**

2. The application is grounded on the grounds that;

1. THAT parcel number Bahati/Kabatini Block 1/2227 was erroneously listed as Bahati/Kabatini Block 1/227.
2. THAT there was an inadvertent error in the manner parcel number Kiambogo/Kiambogo Block 1/193 was shared out.

It is further supported by the affidavit of Mary Nyokabi Njuu.

3. I note that all the beneficiaries have signed a consent authorizing the rectification sought.

4. The gist of the application is that there was an error in the distribution of Title No. Kiambogo/Kiambogo Block 2/197 to Priscilla Njeri, Cifilah Wanjiku, Elias Mbogo, Fine Njeri Njuu, Veronicah Wairimu Njuu, Mary Wairimu Njoroge and Lilian Wairimu Njuu.

5. The said title ought to have been bequeathed to Irene Wanjiku Njuu, Nancy Wambui Njuu, John Kirigwi Njuu, Agnes Wangari Njuu, Jane Wangeci Njuu, Lucy Wanjiru Njuu, Teresiah Wanjiru Njuu, Simon Wang' Ondu Ndanya, Esther Wanja Njuu, Mary Nyokabi (holding in trust for Tabitha Wambui Njuu and Hellen Wangari Njuu) and Worldwide Gospel Church represented by trustees namely, Sammy Njau, Luka Njoroge and Harrison Kariuki Gathumba.

6. It is urged that title number Kiambogo/Kiambogo Block 2/193 was erroneously bequeathed to Irene Wanjiku Njuu, Nancy Wambui Njuu, John Kirigwi Njuu, Agnes Wangari Njuu, Jane Wangeci Njuu, Lucy Wanjiru Njuu, Teresiah Wanjiru Njuu, Simon Wang' Ondu Ndanya, Esther Wanja Njuu, Mary Nyokabi (holding in trust for Tabitha Wambui Njuu and Hellen Wangari Njuu) and Worldwide Gospel Church represented by Sammy Njau, Luka Njoroge and Harrison Kariuki Gathumba (trustees) be bequeathed to Priscilla Njeri, Cifilah Wanjiku, Elias Mbogo, Fine Njeri Njuu, Veronicah Wairimu Njuu, Mary Wairimu Njoroge and Lilian Wairimu Njuu.

7. Fine Njeri Njuu is said to have been omitted as a beneficiary and she ought to be included and proceed to inherit 0.6 hectares of land to be excised from title number Kiambogo/Kiambogo Block 2/56 where the homestead is erected.

8. There was also an omission of plot number Gichua Trading Centre/124 which forms part of the deceased's estate. It is sought that the same be included and bequeathed to Jane Wangeci Njuu.

9. The above changes, it is urged, would be in the interests of justice and would facilitate the smooth distribution of the estate.

10. Mr. Chege counsel for the applicants in a brief submission at the hearing urged the Court to allow the application.

11 I have had occasion to consider the application, the supporting grounds and affidavit. I have had due regard to the record herein. More importantly, I have considered the consent of the beneficiaries which is duly executed and filed.

12. On the material before me, I am persuaded that the rectification sought is necessary to enable the administrator carry out their mandate effectively and to finality.

13. It is necessary to have the errors on bequests corrected as well as to have the inclusion of the omitted beneficiary. The asset of the estate that was left out needs to be included and shared out if the administration of the estate is to be complete.

14. I make a finding that the summons for rectification of grant herein has merit. I allow the same and make the following orders;

1. **THAT** title number KIAMBOGO/KIAMBOGO 2/197 erroneously bequeathed to Priscilla Njeri, Cifilah Wanjiku, Elias Mbogo, Fine Njeri Njuu, Veronicah Wairimu Njuu, Mary Wairimu Njoroge and Lilian Wairimu Njuu be bequeathed to Irene Wanjiku Njuu, Nancy Wambui Njuu, John Kirigwi Njuu, Agnes Wangari Njuu, Jane Wangeci Njuu, Lucy Wanjiru Njuu, Teresiah Wanjiru Njuu, Simon Wang'onde Ndanya, Esther Wanja Njuu, Mary Nyokabi (holding in trust for Tabitha Wambui Njuu and Hellen Wangari Njuu) and Worldwide Gospel Church represented by the following trustees namely, Sammy Njau, Luka Njoroge and Harrison Kariuki Gathumba.

2. **THAT** title number KIAMBOGO/KIAMBOGO BLOCK 2/193 erroneously bequeathed to Irene Wanjiku Njuu, Nancy Wambui Njuu, John Kirigwi Njuu, Agnes Wangari Njuu, Jane Wangeci Njuu, Lucy Wanjiru Njuu, Teresiah Wanjiru Njuu, Simon Wang'onde Ndanya, Esther Wanja Njuu, Mary Nyokabi (holding in trust for Tabitha Wambui Njuu and Hellen Wangari Njuu) and Worldwide Gospel Church represented by Sammy Njau, Luka Njoroge and Harrison Kariuki Gathumba (trustees) be bequeathed to Priscilla Njeri, Cifilah Wanjiku, Elias Mbogo, Fine Njeri Njuu, Veronicah Wairimu Njuu, Mary Wairimu Njoroge and Lilian Wanjiru Njuu.

3. **THAT** FINE NJERI NJUU whose name was erroneously omitted to inherit a portion measuring 0.6 hectares excised from title number KIAMBOGO/KIAMBOGO BLOCK 2/56 where the homestead is erected.

4. **THAT** PLOT NO. GICHUA TRADING CENTRE/124 which forms part of the deceased's estate and was erroneously omitted be included as part of the deceased's estate and be bequeathed to JANE WACHECHI NJUU.

5. **THAT** rectification be made to title number BAHATI/KABATINI BLOCK 1/227 to BAHATI/KABATINI BLOCK 1/2227.

6. **THAT** parcel number KIAMBOGO/KIAMBOGO BLOCK 1/193 be redistributed as follows:-

- i. Priscilla Njeri Njuu - 2.25 acres
- ii. Lilian Wanjiru Njuu - 1.5 acres
- iii. Veronica Wairimu - 1.5 acres
- iv. Mary Wairimu - 0.75 acres
- v. Elias Mbogo Wanjiru - 1.5 acres
- vi. Fine Njeri Njuu - 1.75 acres
- vii. Cifila Wanjiku - 1.75 acres

7. **THAT** parcel number KIAMBOGO/KIAMBOGO BLOCK 1/197 be distributed as follows;

- i. Nancy Wambui Njuu - ½ acre
- ii. Jane Wangeci Njuu - 1½ acres
- iii. Lucy Wanjiru Njuu - 1 acre
- iv. Agnes Wangari Njuu - 1¼ acres
- v. Irene Wanjiku Njuu - 1¼ acres
- vi. John Kirigwi Njuu - 1 acre

vii. Sammy Njau Mwangi, Luke Njoroge Ndirangu & Harris Kariuki Gathimbi (Trustees of Worldwide Gospel Church of Kenya – Shiloh Worship Centre - ¼ acre

viii. Esther Wanja Njuu - ¾ acre

ix. Esther Wanja Njuu & Simon Wangondu Ndanya - ¼ acre

x. Mary Nyokabi – to hold in trust for Tabitha Wambui Njuu - 2 acres

xi. Teresiah Wanjiru Njuu - 1 acre

8. THAT costs be in the cause.

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

**A. K. NDUNG’U**

**JUDGE**