



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT EMBU**

**SUCCESSION CAUSE NO. 71 OF 2005**

**IN THE MATTER OF THE ESTATE OF JOSIAH NJUE DANIEL MUCHANDI (DECEASED)**

**KENNEDY NJUE NTHIGA**

**LEAH NDIA NJERERA NJUE.....ADMINISTRATORS/PETITIONERS**

**RULING**

1. This is a summons for rectification of a grant confirmed by this court (Muchemi, J) on 15th June, 2015 and issued on 16th June, 2015. The summons is brought under Section 74 of the Law of Succession Act (Cap 160) Laws of Kenya and Rules 14 (I) and 43 of the Probate and Administration Rules.
2. According to the applicant's application, the administrator did not disclose material facts in particular that Leah Ndia Njerera Njue was not the sole beneficiary of the estate of Alexander Njue.
3. Additionally, the applicant states that Kennedy Njue who is a co-administrator of the estate of Alexander Njue was not consulted by the administrator when the application was made.
4. Finally the applicant states that Kennedy Njue was made a co-administrator with Leah Ndia Njerera Njue and for that reason the three acres of land given to Leah Ndia Njerera Njue forms part of the estate of Alexander Njue.
5. The summons for rectification is opposed by the administrator on the ground that the applicants seek to add a new beneficiary to the estate of Josiah Njue Daniel Michandi, which is not a matter contemplated for rectification of a grant under section 74 of the Laws of Kenya, amongst other grounds. Section 74 allows rectification of errors of names and description of the time and place of deceased death.
6. I have perused the rival submissions of both counsel. I find that the rectification sought is a challenge to the character of the confirmed grant of this court (Muchemi, J) made on 15th June 2015. It does not relate to rectification of errors in terms of section 74 of the Succession Act (Cap160) Laws of Kenya. In the circumstances the matter should be brought to the attention of Muchemi, J for further directions.

**RULING DATED, SIGNED and DELIVERED** in open court at **EMBU** this 2<sup>nd</sup> day of February **2016**

In the presence of Mr Manyara holding brief for Mr Kimani for the applicant and in the absence of the respondent.

Court clerk Njue

**J.M. BWONWONGA**

**JUDGE**

**02.02.16**