

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

SUCCESSION CAUSE NO. 25 OF 1990

IN THE MATTER OF THE ESTATE OF THE LATE KIITHYA NTHIWA (DECEASED)

PETER KAMOTE KIITHYA.....PETITIONER

VERSUS

JULIUS KIMEU MUTUA.....APPLICANT

RULING

1. The application dated **15th July, 2013**, by way of Chamber Summons is for Orders as follows:-
 - i. **That** the temporary Grant of Letters of Administration issued on **19th May, 2011** and confirmed grant issued on **7th April, 2010** to **Peter Kamote Kiithya** (*now deceased*) be rectified and/or amended to substitute the names of the Administrator **Peter Kamote Kiithya** (*now deceased*) with **Joshua Kimeu Mutua** the Administrator/Petitioner.
 - ii. **That** the confirmed grant be amended in the list of properties so that all the properties given to **Peter Kamote Kiithya** (*now deceased*) be given to his wife **Grace Mumbua Kamote** and all the properties given to **Kivili Mwalilvi** (*now deceased*) be given to her surviving children, **Itumbi Wambua, Milcah Nduku Makau** and **Mutheu Nzioka** to own jointly.
2. The application is supported by an affidavit sworn by **Julius Kimeu Mutua** who states that a Grant of Letters of Administration made to **Peter Kamote Kiithya** as the Administrator of the Estate of the deceased, **Kiithya Nthiwa** was confirmed. Prior to the estate being fully administered the sole administrator of the estate died. Prior to the administrator's demise, a beneficiary of the deceased's estate, **Benedetta Kavili Mwalivi a.k.a Kavili Mwalivi** had passed on. His sons also died leaving only his daughters surviving them.
3. I have considered the application. Evidence has been adduced of death certificates **No. C 317847** issued in respect of **Peter Kamote Kiithya**; **No. 29212** issued in respect of **Benedetta Kavili Mwalivi**. There is a letter written by **Mr. Tirus N. Musyoka** Chief Lukenya Location, Athi River. The contents thereof indicate that Joseph **Musyoki Mwalivi, John Nzioka Mwalivi**, and **Michael Mutyauvyu** sons of **Benedetta Kavili Mwalivi** are deceased.
4. Following events that unfolded the family of the deceased reached an understanding and filed a consent for rectification of the grant issued. All the properties of the deceased **Peter Kamote Kiithya** was entitled to are now to be distributed to his wife **Grace Mumbua Kamote** while all properties that were to be distributed to **Kavili Mwalivi** are to be given to her surviving children namely; **Itumbi Wambua, Milkah Nduku Makau** and **Mutheu Nzioka** to own jointly.
5. Parties herein having reached a decision that is favourable to all of them, I hereby grant the application as prayed.
6. It is so ordered.

DATED, SIGNED and DELIVERED at MACHAKOS this 12TH day of FEBRUARY 2014

L.N. MUTENDE

JUDGE