

IN THE HIGH COURT OF KENYA AT KAKAMEGA

SUCCESSION CAUSE NO. 31 OF 1982

**IN THE MATTER OF THE ESTATE OF ATHANASIO WANGACHI S/O TANGATI –
DECEASED**

AND

- 1. JOAB TANGATI WANGACHI**
 - 2. MOSES MAKERO**
 - 3. JAMES NAMAYI**
 - 4. JOHN PETER**
- PETITIONERS/APPLICANTS**

RULING

Before me is an application brought by way of Summons for rectification of confirmed grant, dated 7th October 2013. The application was filed under **Section 74** of the Law of **Succession Act (Cap.160)** Laws of Kenya and **rule 43 (1), (2) and (3)** of the Probate and Administration Rules. It was filed with an affidavit sworn by two petitioners/administrators who are Moses Makero and James Namayi.

It was deponed in the affidavit that the confirmed grant was issued on 26th September 1995. However, it had emerged that the actual size of the parcel of the land S/Wanga/Ekero/334 did not correspond with what was initially indicated. Therefore, the distribution contained in the confirmed grant, had of necessity to be rectified. It was also deponed that the share of the fourth petitioner John Peter, now deceased, should be given to his widow, Anjeline Abanwendwa Khaemba.

On the hearing date, all the beneficiaries were present in court. They agreed to the rectification and redistribution of the assets proposed.

I find no reason to disallow the application. I therefore allow the application for rectification of grant dated 7th October 2013, and grant prayer 1 therein. The costs of the application will be in the cause, as this is a family matter and no objection to the application was raised.

Dated and delivered at Kakamega this 12^h day of June, 2014

George Dulu

J U D G E