

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
SUCCESSION CAUSE NO. 405 OF 2003

IN THE MATTER OF THE ESTATE OF THE LATE TILUS
KILONZO KITANA (DECEASED)

BETWEEN

SUMMONS FOR RECTIFICATION OF TITLE

**MONICAH NDUNGE KITANA... PETITIONER/
ADMINISTRATOR**

RULING

1. By Summons for Rectification of Grant dated 26th May 2025, brought under sections 74 of the Law of Succession Act and Rule 43 of the Probate and Administration Rules, the Petitioner seeks orders to rectify the Certificate of Confirmation of Grant issued on 26th November 2018 as follows;

- 1. The Certificate of Confirmation of Grant issued to the said Monicah Ndunge Kitana in this matter on the 26th November 2018 and dated 22nd October 2018 be rectified in the following respects as provided for by Rule 43(1) of the Probate and Administration Rules and as a consequence an amended confirmed grant do issue as herein prayed below;***
- 2. THAT as per the previous certificate of grant, ALL the properties Ndongyo Sabuk/Kiboko Block***

1/1746, 1/1747, 1/1797, 1/1752, 1/1751, 1/1749, 1/1750, 1/1732, 1/1782, 1/1781, 1/1745, 1/1756, 1/1747, 1/1755, 1/1786, 1/1754, 1/1784, 1/1783, 1/1785, 1/1787, 1/1760, 1/1759, 1/1758, 1/1757, 1/1753 and 1/1780 should be under the name of Monicah Ndunge Kitana and not Primeland Holdings as indicated.

3. THAT the property Donyo Sabuk/Komarock Block 1/996 should be under the name Monicah Ndunge Kitana and not Primeland Holdings as indicated in the grant.

4. THOSE properties Donyo Sabuk/Kiboko Block 1/1727; Kangundo /Muisuni/3309; Kangundo /Muisuni/3278; Machakos/Kiandani/3569 were erroneously omitted from the certificate of grant and should be issued to Monicah Ndunge Kitana

2. The Summons is supported by the affidavit of the Petitioner who deposes that she petitioned for grant of letters of administration of the estate of the deceased and was issued with Letter 41, followed by a confirmed grant issued on 23rd April 2007. She states that property Kagundo/Muisuni/3309 is missing from the grant and ought to be registered her name Monicah Ndunge Kitana. She further avers that the rectified certificate of confirmation of grant of 26th November 2018 contains errors. Additionally, that she has discovered other properties forming part of the estate of the deceased that were unknown to her at the time of petitioning. These are

Donyo Sabuk/Kiboko Block1/1727; Kangundo /Muisuni/3309; Kangundo /Muisuni/3278; Machakos/Kiandani/3569.

3. She asserts that some properties were erroneously granted to Primeland Holdings while the only property intended for Primeland was LR.No 12715/420 as per the confirmed grant of 9th October 2006.
4. The Petitioner relies on a consent to rectification of grant signed by all the beneficiaries, supporting the proposed amendments. She submits that the rectification is necessary to facilitate the transfer of the properties.
5. During hearing all the listed beneficiaries appeared before Court and confirmed that they had no objection to the rectification being effected.
6. I have considered the Summons, the supporting affidavits, oral submissions and the applicable law. The Petitioner seek to rectify the confirmed grant by
 - a) listing the properties known as Ndonyo Sabuk/Kiboko Block 1/1746, 1/1747, 1/1797, 1/1752, 1/1751, 1/1749, 1/1750, 1/1732, 1/1782, 1/1781, 1/1745, 1/1756, 1/1747, 1/1755, 1/1786, 1/1754, 1/1784, 1/1783, 1/1785, 1/1787, 1/1760, 1/1759, 1/1758, 1/1757, 1/1753

and 1/1780 to be registered in the name of Monicah Ndunge Kitana instead of Primeland Holdings.

b) listing the property Donyo Sabuk Komarock Block 1/996 under the name of Monicah Ndunge Kitana instead of Primeland Holdings.

c) Including properties Donyo Sabuk Komarock Block 1/1727; Kangundo/ Muisuni/3309; Kangundo/ Muisuni/3278; Machakos/ Kiandani/3569 which were erroneously omitted, and registering them in to the name of Monicah Ndunge Kitana.

7. Before addressing the substantive issues for determination, this Court notes a discrepancy in the title of the current application. The deceased is referred to as "Titus Kilonzo Kitana," whereas the correct name on record is "Tilus Kilonzo Kitana." While this may appear to be a mere typographical error, it is not proper to proceed without rectifying it. In the exercise of this Court's discretionary powers, I hereby correct the error to reflect the accurate name of the deceased as Tilus Kilonzo Kitana. Counsel is urged to exercise greater care and precision in drafting future pleadings.

8. On the first prayer, I have perused the record specifically the application for summons for confirmation of grant dated 9th October 2006 and the supporting affidavit sworn on the same date by Monicah Ndunge Kitana. In paragraph 5 of the affidavit, the applicant lists various properties. In sub-

Machakos/Kiandani/3569, the Applicant has provided searches dated 10th March 2025 confirming that the deceased is the registered owner of title Kangundo/Muisuni/3309; and Machakos/Kiandani/3569. A search dated 12th March 2025 confirms ownership of Donyo Sabuk Komarock Block 1/1727. However, no search or proof of ownership has been provided for land title Kangundo/Muisuni/3278. Instead, the search for Kangundo/Muisuni/3309 has been provided twice. Consequently, I will allow this prayer only to the extent that the following three properties; Donyo Sabuk Komarock Block 1/1727; Kangundo/Muisuni/3309 and Machakos/Kiandani/3569 are included in grant.

12. Taking into account that all beneficiaries were present in court and supported the application, I hereby allow the application summons for rectification as follows;
 - a. The properties Ndongyo Sabuk/Kiboko Block 1/1746, 1/1747, 1/1797, 1/1752, 1/1751, 1/1749, 1/1750, 1/1732, 1/1782, 1/1781, 1/1745, 1/1756, 1/1747, 1/1755, 1/1786, 1/1754, 1/1784, 1/1783, 1/1785, 1/1787, 1/1760, 1/1759, 1/1758, 1/1757, 1/1753 and 1/1780 be in the name of Monicah Ndunge Kitana.
 - b. Ndongyo Sabuk Komarock Block 1/996 be in the name of Monicah Ndunge Kitana.
 - c. The properties Donyo Sabuk Komarock Block 1/1727; Kangundo/Muisuni/3309 and Machakos/Kiandani/3569

shall be included as part of the estate of the deceased and be registered in the name of Monicah Ndunge Kitana.

d. It is so ordered.

Dated, signed and delivered at Machakos this 16th day of October 2025.

RHODA RUTTO

JUDGE

In the presence of;

..... Petitioner

Selina Court Assistant