



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Jackson Kamande Gachomo (Deceased) (Succession Cause
531 of 2018) [2025] KEMC 21 (KLR) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEMC 21 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
SUCCESSION CAUSE 531 OF 2018
PA NDEGE, SPM
FEBRUARY 27, 2025**

IN THE MATTER OF THE ESTATE OF JACKSON KAMANDE GACHOMO (DECEASED)

RULING

1. Before me is a Summons for Rectification of the grant herein, brought pursuant to the provisions of section 74 of the *Law of Succession Act* and Rule 43(1) of the *Probate and Administration Rules*, in which the applicant, Eunice Wanjiru Kamande Gachomo, the administrator herein, is seeking for the following orders: -
 - i. That Grant of Letters of Administration intestate and Amended Certificate of Confirmation of Grant issued on 23rd April, 2019 and 1st July, 2021, respectively to the said Eunice Wanjiru Kamande Gachomo be rectified and confirmed.
 - ii. That Central Depository accounts known as Co-operative Bank 7,000 Shares and Kenya Commercial Bank 1363 Shares be rectified to read Co-operatives Bank Shares and Kenya Commercial Bank Shares, respectively.
 - iii. That Safaricom Shares held under Member Number 10798702 be included in the list of assets.
 - iv. That the costs of this Application be in the cause.
2. The application is premised on the 6 grounds on the face of it, and the Supporting Affidavit of Eunice Wanjiru Kamande Gachomo, the applicant, sworn at Nakuru on 23/08/2024; mainly that: -
 - a. The bank accounts known as Co-operative Bank 7,000 Shares and Kenya Commercial Bank 1363 Shares ought to be indicated as Co-operative Bank Shares and Kenya Commercial Bank Shares, respectively, by reason that the numbers are unascertainable since they kept fluctuating every time dividends issue.
 - b. At the time of petitioning, the Petitioner was not aware that the deceased had Safaricom Shares held under Member Number 10798702



- c. The Petitioner would wish to have the Asset known as Safaricom Shares held Member Number 10798702 be included in the list of properties owned by the deceased.
 - d. The petitioner would wish to manage and distribute the estate of the deceased.
 - e. Unless the petitioner is granted the prayers sought, she will be unable to distribute and manage the estate of the deceased adequately.
 - f. It is important that all the properties are accurately reflected in the grant to enable the petitioner administer the estate adequately and justly.
3. I have considered this summons for rectification of Grant, the Affidavits filed in reply thereto as well as the written submissions filed by both parties. Rectification of Grants is provided for by section 74 of the Law of Succession Act, Cap 160, Laws of Kenya which provides as follows: -

Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly.

4. Rule 43(1) of the Probate and Administration Rules states as follows: -

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- (1) Where the holder of a grant seeks pursuant to the provisions of section 74 of the Act rectification of an error in the grant as to the names or descriptions of any person or thing or as to the time or place of the death of the deceased or, in the case of a limited grant, the purpose for which the grant was made, he shall apply by summons in Form 110 for such rectification through the registry and in the cause in which the grant was issued.

5. Rectification is allowed in order to correct a mis-description of a property or to correct a name which has not been fully or properly described in the Grant. I find that the rectification of the Central Depository accounts fits this purpose. I however find the addition of the Safaricom shares as sought in prayer number 3 to amount to addition of a new assets and is therefore not available via a rectification.

6. In Re Estate Of Charles Kibe Karanja (Deceased) 2015 eKLR the Court held as follows: -

If.... there is discovery of new assets that were not available or had not been discovered at the time of distribution, among others; it would be imprudent to seek rectification or alteration or amendment of the certificate of confirmation of grant. Such changes are fundamental, not superficial. They go to the core of the distribution. They cannot be affected without touching the orders made by the court at the distribution of the estate. Consequently, such changes cannot and should not be effected through a mere amendment of the certificate of confirmation of grant. The proper approach ought to be an application for review of the orders made at the confirmation of the grant." (own emphasis)

7. I thus allow the application in terms of prayer numbers (i), (ii) and (iv) only. Prayer number (iii) is hereby dismissed for being unavailable via this forum.

DATED IN NAKURU THIS...27TH DAY OF FEBRUARY, 2025.

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ALOYCE-PETER-NDEGE



SENIOR PRINCIPAL MAGISTRATE

In the presence of;

Applicant's Counsel; Mugweru.

Applicant:

