



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Philip King'ori Muratha (Succession Cause
E315 of 2022) [2025] KEMC 74 (KLR) (28 April 2025) (Ruling)**

Neutral citation: [2025] KEMC 74 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
SUCCESSION CAUSE E315 OF 2022
PA NDEGE, SPM
APRIL 28, 2025**

RULING

1. Before me is a Summons for Rectification of the grant herein, in which the applicant, Philip Mwangi King'ori, the administrator herein, is seeking for the following orders: -
 - i. That the Grant of Letters of Administration issued to the said Philip Mwangi Kingori in this matter on 11/10/2022 and thereafter confirmed on 23/11/2023 be rectified in the following respect as provided for by rule 43(1) of the probate and administration rules.
 - ii. That title No. Nyandarua/ Mawingo Salient/2619 be included in the list of properties of the deceased estate.
 - iii. That the deceased Philip Kingori Muratha was also known as Philip Kingori Muratha and or Philip Kingori Murathe
 - iv. That the cost of this application be provided for.
2. The application is premised on the 3 grounds on the face of it, and the Supporting Affidavit of Philip Mwangi Kingori, the applicant, sworn at Nakuru on 27/05/2024; mainly that: -
 - a. The grant for letters of administration was made to me by this Honorable Court on 11/10/2022 and thereafter confirmed on 23/11/2023.
 - b. Through oversight, the applicant omitted title No. Nyandarua/ Mawingo Salient/2619 which should be included in the list of the deceased assets.
 - c. That the cost of this application be provided for.
3. I have considered this summons for rectification of Grant, the Affidavits filed in reply thereto as well as the oral submissions by the counsel for the applicant herein, Mr. Kamau. 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: -

43(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 to correct the name of the deceased as prayed for in prayer No. 3 fits this purpose. I however find the addition of title No. Nyandarua/ Mawingo Salient/2619 as sought in prayer number 2 to amount to addition of a new asset 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 number 3 only. Prayer number 2 is hereby dismissed for being unavailable via this forum.

DATED IN NAKURU THIS 28th DAY OF APRIL, 2025.

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ALOYCE-PETER-NDEGE

SENIOR PRINCIPAL MAGISTRATE

In the presence of;

Applicant's Counsel: Kamau

Applicant: Absent

Kamau: Praying for a copy of the ruling

CT: Same to be supplied upon payment of any necessary cost.

