



**In re Estate of Pritam Kaur (Deceased) (Succession Cause  
E755 of 2021) [2025] KEMC 100 (KLR) (23 May 2025) (Ruling)**

Neutral citation: [2025] KEMC 100 (KLR)

**REPUBLIC OF KENYA  
IN THE NAKURU LAW COURTS  
SUCCESSION CAUSE E755 OF 2021  
PA NDEGE, SPM  
MAY 23, 2025**

**IN THE MATTER OF  
RAVINDER SINGH LOTTAY ..... APPLICANT**

**RULING**

1. This matter relates to the estate of Pritam Kaur (deceased) and what is pending before this court is a summons dated 11/05/2022. The summons is brought under section 47 the *Law of Succession Act* (Cap 160 Laws of Kenya) and Rule 43 of the Probate and Administration Rules. The applicant seeks an order that the certificate of confirmation of grant be rectified to correct the name of the beneficiary to read 'Joseph Kimani Wachua' in place of 'Joseph Kimani Wachira' and that the cost of the Application be provided for.
2. The application is based on the supporting affidavit of the applicant sworn at Nakuru on 07/02/2024 inter alia that: -
  - I. That the Letters of Administration confirmed on 31/10/2022 with the estate's sole asset Land Parcel number 1R No. 2XXX5 (Land Reference No. 5X0/2X4) Elburgon having devolved to Joseph Kimani Wachira wholly.
  - II. That subsequently upon the Confirmation of Grant a Confirmed Grant was issued by this honourable court but the name of the beneficiary Joseph Kimani Wachua was erroneously described as 'Joseph Kimani Wachira.'
  - III. That for the reason above, it is not possible to complete the transmission of the said property to the beneficiary hence the administration is not complete.
3. Though the application is ex parte, with no opposition, it is not that every such application must be allowed as a matter of course. As I court of law, I still have a duty in principle to look at what the application is about and what it seeks. It is not automatic that for any ex parte or unopposed application, the court will as a matter of course grant the sought orders. As held by the Supreme Court



of Kenya in *Gideon S. Konchellah Vrs Julius L. Sunkuli And 2 Others* (2018) e KLR, it behoves the court to be satisfied that prima facie, with no objection, the application is meritorious and prayers may be granted.

4. I have looked at the application herein, there is only one issue for determination herein. This is whether the application has satisfied the conditions set for this court to order the rectification and/or amendment of the grant. I will proceed to examine the application on this issue.
5. The jurisdiction of this court to order rectification of grant is donated by section 74 of the *Law of Succession Act*. This section provides:-

Errors in names and descriptions, or in setting out 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.

6. The marginal notes under the section states that errors may be rectified by the court. On the other hand, Rule 43(1) of the Probate and Administration Rules provides: -

Where the holder of grant seeks pursuant to 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 and places of 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 made.

7. From the wording of these provisions which deal with rectification of grant, it is clear that the scope of rectification of grant is limited to correction of errors in the names and descriptions or in setting forth the time and place of the deceased's death. In general terms rectification is meant to correct errors which will not substantially interfere or change the grant and certificate of grant. I may also point out that minor errors are what rectification seeks to correct.
8. In *The Matter Of The Estate Of Geoffrey Kinuthia Nyamweinga* (deceased) (2013) e KLR it was stated;

The law on rectification or alteration of grants is section 74 of the *Law of Succession Act* and Rule 43 of the Probate and Administration Rules. What these provisions mean is that errors may be rectified by the court where they relate to names or descriptions, or setting out of the time and place of the deceased's death. The effect is that the power to order rectification is limited to those situations, and therefore the power given to the court by these provisions is not general....

9. Other matters which may substantially affect the grant are best addressed through an application for review or appeal. The applicant seeks rectification of the name of the beneficiary listed as 'Joseph Kimani Wachira' be corrected to read as 'Joseph Kimani Wachua'. As seen in section 74 of the *Law of Succession Act* and Rule 43 and Probate and Administration Rules, rectification must relate to a name or description or time and place of the deceased's death. The name Wachira falls under the errors relating to a name. It is a typographical error on the certificate of confirmation herein.
10. Granting rectification of the grant will not substantially interfere or change the grant and the certificate of grant. The name of the beneficiary Joseph Kimani Wachua was erroneously described as Joseph Kimani Wachira in the confirmed grant. In the letter from the chief filed at the initiation of this cause, it was confirmed that the beneficiary herein is Joseph Kimani Wachua and not Wachira as indicated in



the Certificate of Confirmation. Such rectification falls under errors that may be rectified under section 74 of the *Law of Succession Act*. I order that the name indicated as Joseph Kimani Wachira shall now be rectified to read Joseph Kimani Wachua. I therefore find that the grounds seeking the rectification and/or amendment herein to be proved. And I do hereby allow the application with no order as to costs.

**DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT THIS...23rd... DAY OF  
May 2024**

**ALOYCE- PETER- NDEGE**

**SENIOR PRINCIPAL MAGISTRATE**

