



REPUBLIC OF KENYA



**In re Estate of Joseph Makau Maingi (Deceased) (Succession Cause 426 of 2012)
[2025] KEHC 16191 (KLR) (Family) (10 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16191 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY**

SUCCESSION CAUSE 426 OF 2012

CJ KENDAGOR, J

NOVEMBER 10, 2025

IN THE MATTER OF

**SUSAN MUENI MAINGI 1ST APPLICANT
ANDREW MAKAU MAINGI 2ND APPLICANT
PAULINE TAUBENSEE 3RD APPLICANT
LENARD KAINDI MAINGI 4TH APPLICANT**

(IN THE MATTER OF THE ESTATE OF JOSEPH MAKAU MAINGI (DECEASED))

RULING

1. This Ruling relates to an application dated 16th April, 2024. The application seeks the following orders;
 - a. THAT an order for rectification be granted in respect of Certificate of Confirmation of Grant issued on December 10, 2014 to rectify and re-issue same incorporating the amended Schedule of Identification and Shares of all persons beneficially entitled attached to the Schedule thereto;
 - b. Any other or further order that the honourable court may be pleased to grant.
2. The estate has four beneficiaries: Susan, Andrew, Pauline, and Lenard, who are the children of the deceased. They jointly petitioned for Letters of Administration intestate via a petition dated 3rd November, 2011.
3. The Grant was issued on 11th July, 2012, in the names of only two administrators; Susan and Andrew. On 20th May, 2014 the parties entered into a consent allowing an application dated 28th November, 2012 that sought rectification of the Grant to include the other two administrators, Pauline and Lenard, who had been left out.



4. The Grant was confirmed on 10th December, 2012.
5. Susan (one of the administrators and beneficiary to the estate) opposes the application. The other three support the application.
6. I will examine each prayer as sought;
 - i. Rectification of the description of the property earlier captured as Plot 3628 Kavilia Farm;
 - ii. Rectification to include 50 acres for the purchaser;
 - iii. Rectification of shares to capture accrued and increased bonuses;
 - iv. Rectification to amalgamate the shares to cater for beneficiaries without CDC accounts.

Rectification of the description of the property earlier captured as Plot 3628 Kavilia Farm;

7. The Applicants' case is that the rectification should be done as the property that had been captured in the Grant as Plot 3628 Kavilia Farm, Lukenya Location, Athi River Division, Machakos District, presently has a new description – Athi River/Athi River Block 8/20. This property featured in paragraphs 1 and 3 of the Certificate of Confirmation of Grant.
8. The Applicants have provided comprehensive documentation illustrating the demarcation process of the specific parcel of land, along with the subsequent issuance of the lease and the transfer documentation associated with it. Additionally, a search Certificate has been included to substantiate the property's ownership and legal status. Upon reviewing the documentation, it is clear that a rectification is necessary to address the discrepancies of how the parcel had been referenced at the time of making of the Grant and to facilitate the transfer of the property to the intended beneficiaries.

Rectification to include 50 acres for the purchaser;

9. The Respondent has also opposed this part of the rectification. Nevertheless, she admits that the sale in question was executed by their late father, thereby affirming its legitimacy. In paragraph 11 of her Replying Affidavit, she confirms that the size of the parcel involved is 50 acres. Considering this acknowledgement, it is essential to rectify the omission to prevent litigation from escalating into protracted proceedings, yet the transaction is legitimate. By doing so, the bona fide purchaser's interest is reflected in the Certificate of Confirmation of Grant.

Rectification of shares to capture accrued and increased bonuses;

10. After carefully reviewing the Applicants' detailed explanation on this issue, I find the explanation to be plausible and well-supported. The key difference between the proposed distribution method and the earlier distribution plan is that the current approach no longer specifies an exact number of shares per beneficiary, as previously stated. Instead, the rectification sought allocates a specific fraction - precisely one-quarter of a per cent (25%) - of the total shareholding to each beneficiary.
11. There is no doubt that the shares are clearly identified as the property of the deceased, all the parties have a legitimate expectation that the value of these shares has appreciated over time due to market dynamics and other factors.
12. This adjustment takes into account the overall value of the shares with accrued bonuses rather than assigning fixed quantities, and the Court finds merit in the same.



Rectification to amalgamate the shares to cater for beneficiaries without CDS accounts.

13. The Applicants have explained the challenges regarding the shares and dividends for the beneficiaries without the Central Depository System Accounts. The Applicants indicated that the intention was to have Andrew and Lenard receive on behalf of the two sisters and subsequently transmit them over. However, I agree with Susan that if she prefers to have hers assigned directly, then there is no need for rectification regarding her share. However, since Pauline is stated to be out of the country and has consented to the rectification, the Court will permit the rectification only to the extent of Pauline's share, which shall be held by Lenard in trust for her.
14. The Court finds that the proposed rectifications are made in good faith and that the same will facilitate the expeditious conclusion of the distribution of the estate.
15. Concerning the matter of the Grant, the Court notes that, following the entry of consent on 20th May, 2014 a new Grant with the four administrators was not subsequently issued. This oversight was an error on the part of the Court.
16. Consequently, a new Grant, along with a rectified Certificate of Confirmation of Grant, shall be issued to reflect the consent and the disposition outlined in the paragraphs above on the application now before the Court.
17. Each party shall bear own costs of the application.
18. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 10TH DAY OF NOVEMBER, 2025.

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C. KENDAGOR
JUDGE

In the presence of:

Court Assistant: Beryl

L. Maingi – Advocate for Applicant

