



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Kiptalam Arap Rono (Deceased) (Succession Cause
179 of 2014) [2025] KEHC 15844 (KLR) (3 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 15844 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT ELDORET

SUCCESSION CAUSE 179 OF 2014

RN NYAKUNDI, J

NOVEMBER 3, 2025

IN THE MATTER OF THE ESTATE OF THE LATE KIPTALAM ARAP RONO (DECEASED)

IN THE MATTER OF

BEN KIPKOSGEI RONO 1ST APPLICANT

ABIGAEI RONO 2ND APPLICANT

SABINA JEMUTAI RONO 3RD APPLICANT

RULING

1. The Applicants herein filed Summons for Rectification of Grant dated 15th April 2025 brought pursuant to section 47 and 74 of the *Law of Succession Act* and Rule 43 of the Probate and Administration Rules seeking the following orders that:
 - a. The Grant of probate (or letters of administration intestate or with will annexed) made to the said Ben Kipkosgei Rono, Abigael Rono, Mary Pamela Jepkemboi And Sabina Jemutai Rono in this matter on 27-8-2014 and confirmed on 31-7-2015 be and is hereby rectified forthwith in the following respects: -
 - a. The Grant of Probate (or letters of administration intestate or with will annexed) made to the said Ben Kipkosgei Rono, Abigael Rono, Mary Pamela Jepkemboi And Sabina Jemutai Rono In This Matter On 27-8-2014 And Confirmed On 31-7-2015 Be Rectified And Made To The Said Ben Kipkosgei Rono, Abigael Rono And Sabina Jemutai Rono.
 - b. The Certificate of Confirmation issued on 31-7-2015 pursuant to the Grant of Probate (or Letters of administration intestate or with will annexed) made to the said Ben Kipkosgei Rono, Abigael Rono, Mary Pamela Jepkemboi And Sabina Jemutai Rono Be And Is Hereby Amended/rectified In The Schedule part of that certificate of confirmation to read as follows:



- a. Ben Kipkosgei Rono
 1. Land at Moiben LR NO. 2235/2 - 450 Acres
 2. Ford Tractor KLY 728 - Whole
 3. Land/plot No. 366 at Biretwo - 2.5 Acres
 4. Land/plot (Chepsigot) No. 2372 - 0.5 Acres
- b. Mary Pamela Jepkemboi – Deceased
 1. Land at Moiben LR NO. 2235/2 - 100 Acres
 2. Fiat Tractor KSL 899 - Whole
 3. Land/plot No. 366 at Chepsigot - 2.5 Acres
- c. Sabina Jemutai Rono
 1. Land at Moiben LR NO. 2235/2 - 100 Acres
 2. Land/plot No. 521 (Kapchelimo plot) *at Chepsigot (1.1 acres) - Whole
 3. Land/Plot No. 366 at Biretwo - 2.5 Acres
 4. Pick up Toyota Hillux Marron KAG 356Z - Whole
 5. Land at Moiben LR No. 2235/2 - 100 Acres
 (As the custodian and to hold in trust for and on behalf of the children of the estates of Pauline Rono (deceased) and Anne Rono deceased in equal shares of 50 Acres each).
- d. Abigael Rono
 1. Land at Moiben LR No. 2235/2 - 200 Acres
 2. Land/plot No. 366 at Biretwo - 2.5 Acres
- e. Thomas Bore
 Land at Moiben LR NO. 2235/2 - 50 Acres
- f. Gilbert Magut
 Land at Moiben LR No. 2235/2 - 50 Acres
- g. Ben Kipkosgei Misoi ID/NO 25506646
 Land at Moiben LR NO. 2235/2 - 22 Acres
- h. Reuben Biwott Suter ID/No. 9959916
 Land at Moiben LR NO. 2235/2 - 15 Acres
- i. Catholic Diocese of Eldoret (Our Lady of Queen of Apostles – Meibeki (Church) -
 5 Acres
- j. Administrators of the Estate of the deceased
 Land at Moiben LR No. 2235/2 - 100 Acres



In trust for and on behalf of themselves and the other beneficiaries of the estate of the deceased in this matter.

k. Centre Plots

Land at Moiben LR No. 2235/2 - 5 Acres

b. The costs of this application be in the cause.

2. The Application is grounded on the supporting annexed affidavit dated 15th April 2025 sworn by the Applicants herein who deponed as follows:

a. A grant of letters of administration of the estate of the estate was made to us by this Court on the 27th day of August, 2014.

b. The said grant contains errors as to the shares of the beneficiaries whose proposed shares and amendments are as follows: -

a. Ben Kipkosgei Rono

1. Land at Moiben LR NO. 2235/2 - 450 Acres

2. Ford Tractor KLY 728 - Whole

3. Land/plot No. 366 at Biretwo - 2.5 Acres

4. Land/plot (Chepsigot) No. 2372 - 0.5 Acres

b. Mary Pamela Jepkemboi – Deceased

1. Land at Moiben LR NO. 2235/2 - 100 Acres

2. Fiat Tractor KSL 899 - Whole

3. Land/plot No. 366 at Chepsigot - 2.5 Acres

c. Sabina Jemutai Rono

1. Land at Moiben LR NO. 2235/2 - 100 Acres

2. Land/plot No. 521 (Kapchelimo plot) at Chepsigot (1.1 acres) - Whole

3. Land/Plot No. 366 at Biretwo - 2.5 Acres

4. Pick up Toyota Hillux Marron KAG 356Z - Whole

5. Land at Moiben LR No. 2235/2 - 100 Acres

(As the custodian and to hold in trust for and on behalf of the children of the estates of Pauline Rono (deceased) and Anne Rono deceased in equal shares of 50 Acres each).

d. Abigael Rono

1. Land at Moiben LR No. 2235/2 - 200 Acres

2. Land/plot No. 366 at Biretwo - 2.5 Acres

3. Thomas Bore

Land at Moiben LR NO. 2235/2 - 50 Acres



- e. Gilbert Magut
Land at Moiben LR No. 2235/2 - 50 Acres
 - f. Ben Kipkosgei Misoi ID/NO 25506646
Land at Moiben LR NO. 2235/2 - 22 Acres
 - g. Reuben Biwott Suter ID/No. 9959916
Land at Moiben LR NO. 2235/2 - 15 Acres
 - h. Catholic Diocese of Eldoret (Our Lady of Queen of Apostles – Meibeki (Church) -
5 Acres
 - i. Administrators of the Estate of the deceased
Land at Moiben LR No. 2235/2 - 100 Acres
In trust for and on behalf of themselves and the other beneficiaries of the estate of the
deceased in this matter.
 - j. Centre Plots
Land at Moiben LR No. 2235/2 - 5 Acres
3. The said grant was confirmed on the 31st day of July, 2015.
4. The distribution of the estate is as follows: -
- i. Parcel Of Land At Moiben LR NO. 2235/2
 - a. Ben Kipkosgei Rono - 450 Acres
 - b. Mary Rono - 100 Acres
 - c. Sabina Rono - 100 Acres
 - d. Abigael Rono - 200 Acres
 - e. Sabina Rono in trust for and on behalf of the estates of the late Pauline Rono and the
late Pauline Rono and the late Anne Rono in equal shares - 100 Acres
 - f. Thomas Bore - 50 Acres
 - g. Gilbert Magut - 50 Acres
 - h. Ben Kipkosgei Misoi - 22 Acres
 - i. Reuben Biwott Suter - 15 Acres
 - j. Catholic Diocese of Eldoret (Meibeki Parish Church) - 5 Acres
 - k. Centre plots - 5 Acres
 - ii. Biretwo/chepsigot Plot No. 366
 - a. Ben Kipkosgei Rono - Biretwo/Chepsigot Plot No. 366 - 2.5 Acres
 - b. Mary Rono - Biretwo/Chepsigot Plot No. 366 - 2.5 Acres
 - c. Sabina Rono - Biretwo/Chepsogot Plot No. 366 - 2.5 Acres



- d. Abigail Rono - Biretwo/Chepsogot Plot No. 366 - 2.5 Acres
 - iii. Chepsigot/Kapchelimo Chepsigot A Plot No. 521 (Whole)
Sabina Rono - 1.1 Acres
 - iv. Mary Rono - Fiat Tractor Reg. No. KSL 899
 - v. Ben Kipkosgei Rono - Ford Tractor Reg. No. KLY 728
 - vi. Sabina Rono - Pick up Toyota Hilux Reg. No. 356 Z (Maroon)
5. The assets namely the Iten/Irong/436 (10 Acres) and the plot/land at Mombasa are left out in the administration and distribution of the estate of the deceased due to the followings: -
- a. The ownership documents of the plot/land at Mombasa have not yet been traced to date.
 - b. Thomas Bore has claimed and registered in his name the Iten/Irong/436 from the estate of the deceased in which
 - c. the share in the plot/land at Moiben LR No. 2235/2 has been reduced or lessened by 100 Acres and distributed in terms of paragraph 2(j) of and this Affidavit.
6. It is desirable that the above errors be rectified by the court.

Analysis and Determination

7. The summons for rectification are anchored under Section 74 of the *Law of Succession Act* and Rule 43 of the Probate and Administration rules. In exercising discretion the court is also guided by the provisions of Rule 73 (1) of the Probate and Administration Rules as read with Section 1(A), 1(B) 3 & 3(A) of the *Civil Procedure Act*. The scheme of rectification or amendment for that matter can also be entertained by application of the law under Section 80 of the *Civil Procedure Act* and Order 45 Rule 1 of the Civil Procedure Rules. This is essentially to address errors of fact or mistakes apparent on the face of the record against the impugned grant of letters of administration including the one which has been confirmed.
8. In the matter of rectification under Section 74 of the *Law of Succession Act* and Rule 43 of the Probate and Administration Rules the provisions allows the court to correct minor specific errors in a grant of representation or a certificate of confirmation. The summons for rectification is restrictive in nature that it only deals with (a) errors in names of description of persons or things (b) Errors in setting forth the time and place of the deceased's death (c) Errors regarding the purpose of a limited grant.
9. On the other hand, review jurisdiction can be intertwined by a probate court if the affidavit evidence shows existence of compelling evidence,
- a. There is the discovery of new and important matter or evidence, which was not within the applicants knowledge or could not be produced at the time of the grants confirmation.
 - b. There is a mistake or error apparent on the face of the record (but the error does not fall within Section 74) or
 - c. For any other sufficient reason
10. What is the distinction between review and rectification for a court to elect which provisions of the law is relevant to the given circumstances? In this respect, it is necessary to make reference to case law. In terms of rectification, the court in re of Omae Nyangweso (Deceased) KEHC 4924 the court held that



rectification is limited to correcting errors in names, description, or minor clerical details. Introducing new assets or beneficiaries must be done by applying for review or seeking a fresh confirmation of grant.

The limb on review is well captured in the case of Geoffrey Kinuthia Nyamwinga (Deceased) KEHC e 3745 KLR states as follows: A grant and a certificate of confirmation of grant are court orders taking the form of a certificate. The grant is made after the court allows the petition for a grant of representation, whether it be of letters or of probate. A certificate of confirmation of grant is issued following a successful application for confirmation of the grant. The two are not pleadings, and therefore the principles which govern their rectification are not those applying to amendment of pleadings but those that apply to amendment of court orders”.

“A court order made by a civil court can only be amended through a review application, and not through an application for amendment of pleadings. The *Law of Succession Act* does not provide for amendment of pleadings in succession causes, but it does provide amendment of grants. This is through either Section 74 of the *Law of Succession Act* to the extent provided in that provision, or through a review application through Order 45 of the Civil Procedure Rules. Order 45 was formerly Order XLV, which is one of the provisions of the Civil Procedure Rules imported into succession practice through Rule 63 of the Probate and Administration Rules” “Where a proposed amendment of a grant cannot be dealt with under the provisions of section 74 of the *Law of Succession Act*, the applicant ought to approach the court under order 44 of the Civil Procedure Rules. A review under order 44 of the Civil Procedure Rules may be sought upon discovery of new and important matter or on account of some mistake or error apparent on the face of the record, or for any sufficient reason. The applicant in this case should have moved the court under this provision – order 44 of the Civil Procedure Rules on account of some mistake or error apparent on the face of the record and on the ground that there exists a sufficient reason for review of the certificate.

11. It is settled law therefore, the review jurisdiction under Section 80 of the *Civil Procedure Act* and Order 45 Rule 1 of the Civil Procedure Rules may be exercised whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court. The error or omission must be self-evident and should not require an elaborate argument to be established. It will not be a sufficient ground for review that another judge could have taken a different view of the matter nor can it be a ground for review that the court proceeded on an incorrect exposition of the law and of the law cannot be a ground for review (See National Bank of Kenya Ltd Ndugu Janu (1995- 1998)
12. I have reviewed the affidavit dated 15.4.2025 sworn by BEN KIPKOSGEI RONO, ABIGAEL RONO and SABINA JEMUTAI RONO and I am of the view that there is sufficient cause to invoke Section 80 of the *Civil Procedure Act*, Order 45 Rule 1 of the Civil Procedure Rules, Rule 73(1) of the Probate and Administration Rules to effect errors of fact and mistake apparent on the face of the record as herein tabulated in the table below:



Name	Asset	Shares
Ben Kipkoisgei Rono	Land At Moiben Lr No 2235/2/ Ford Tractor Kly 728 Land/plot No 366 At Biretwo At Biretwo Land /plot (chepsigot) No 2372	450 Acres Whole 2.5 Acres 0.5 Acres
Mary Pamela Jepkemboi	Moiben Lr No 2235/2 Flat Tractor Ksl 899 Land/plot No 366 At Chepsigot	100 Acres Whole 2.5 Acres
Sabina Jemutai Rono	Moiben Lr No 2235/2 Land/plot No 521 (kapchelimo Plot At Chepsigot (1.1 Acres) Land/plot No 366 At Biretwo Pick Up Toyota Hillux Maroon Kag 356z Land At Moiben Lr No 2235/2 (as The Custodian And To Hold In Trust For And On Behalf Of The Children Of The Estate Of Pauline Rono Deceased And Anne Rono Deceased In Equal Shares Of 50 Acres Each)	100acres Whole 2.5 Acres WhoLE 100ACRES
Abigael Rono	Moiben Lr No 2235/2 Land Plot No 366 At Biretwo	200 Acres 2.5 Acres
Thomas Bore	Land At Moiben Lr No 2235/2	50 Acres
Gilbert Magut	Land At Boiben Lr No 2235/2	50 Acres
Ben Kipkosgei Misoi I/d No 25506646	Land At Moiben Lr No 2235/2	22 Acres



Reuben Biwott Suter Id No 995916	Land At Moiben Lr No 2235/2 Catholic Diocese Of Eldoret (our Lady Of Queen Of Apostle- Meibeki Church)	15 Acres 5 Acres
Administraots Of The Estate Of The Deceased	Land At Moiben Lr No 2235/2 In Trust For And On Behalf Of Themselves And The Other Beneficiareis Of The Estate Of The Deceased In This Matter	100 Acres
Central Plots	Land At Moiben Lr No 22235/2	54acres
Parcel Of Land At Moiben Lr No 2235/2		
Ben Kipkosgei Rono	Moiben Lr No 2233/2	450 Acres
Mary Rono	Moiben Lr No 2233/2	100acres
Sabina Rono	Moiben Lr No 2233/2	100 Acres
Abigael Rono	Moiben Lr No 2233/2	200 Acres
Sabina Rono In Trust For And On Behalf Of The Estate Of The Late Pauline Rono And The Late Anne Rono	Moiben Lr No 2233/2	100 Acres
Thomas Bore	Moiben Lr No 2233/2	50 Acres
Gilbert Magut	Moiben Lr No 2233/2	50 Acres
Ben Kipkosgei Misoi	Moiben Lr No 2233/2	22 Acres
Reuben Biwott Suter	Moiben Lr No 2233/2	15 Acres
Catholic Dioceses Of Eldoret (meibeki Parish Church)	Moiben Lr No 2233/2	5 Acres
Centre Plots	Moiben Lr No 2233/2	5 Acrs
Biretwo/chepsigot Plot No 366		
Ben Kipkosgei Rono	Biretwo/chepsigot /plot No 366	2.5 Acres



Mary Rono	Biretwo/chepsigot /plot No 366	2.5 Acres
Sabina Rono	Biretwo/chepsigot /plot No 366	2.5 Acres
Abigail Rono	Biretwo/chepsigot /plot No 366	2.5 Acres
Sabina Rono	Chepsigot/kapchelimo Chepsigot A Plot No 521 (whole)	1.1 Acres
Mary Rono	Flat Tractor Reg No Ksl 899	
Ben Kipkosgei Rono	Ford Tractor Reg. No Kly 728	
Sabina Rono	Pick Up Toyota Hilux Reg No 356z	

13. It is clear from the record that summons for rectification of the grant is within the threshold of the law as a subject matter of this litigation for me to exercise discretion not only to grant the remedies under Section 74 of the *Law of Succession Act* and Rule 43 of the Probate and Administration Act and Rule 43 of the Probate and Administration Rules but further on the strength of the statutory provisions under Section 80 of the *Civil Procedure Act* and Order 45 Rule 1 of the Civil Procedure Rule. The reviewed and amended grant shall take the model the tabulated in the table formatted elsewhere in this ruling.

14. I make no orders as to costs.

GIVEN UNDR MY HAND AND THE SEAL OF THIS COURT THIS 3RD DAY OF NOVEMBER 2025

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R. NYAKUNDI
JUDGE

