



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Marko Masinde Namasaka (Deceased) (Succession Cause 215 of 2015) [2025] KEHC 18750 (KLR) (18 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18750 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 215 OF 2015**

**RN NYAKUNDI, J**

**DECEMBER 18, 2025**

**IN THE MATTER OF THE ESTATE OF THE LATE MARKO  
MASINDE NAMASAKA - (DECEASED) THROUGH**

**IN THE MATTER OF**

**THOMAS WEKESA NAMASAKA ..... PETITIONER**

**RULING**

1. Before this Court is a summons for rectification of confirmed Grant dated 9<sup>th</sup> September 2025 seeking for the following orders:
  - a. That the certificate of confirmation of grant issued on 22<sup>nd</sup> July, 2019 be and is hereby further rectified/amended as follows;
    - i. That the 2<sup>nd</sup> administrator William Masinde Namasaka who is now deceased be removed from the role of Administrator so as to enable the sole surviving Administrator to transmit the shares to the beneficiaries.
    - ii. That the name of the surviving Administrator be cited as Thomas Wekesa Namasaka instead of Tom Namasaka.
  - b. Costs of this application be in the cause.
2. Which application is grounded on the affidavit of Thomas Wekesa Namasaka and on the further grounds set out here below;-
  - a. That the 2<sup>nd</sup> Administrator died intestate on the 24<sup>th</sup> day of July, 2016 hence there is need to remove him from the role of Administrator.
  - b. That it is necessary that rectified and/or amended certificate of confirmation of grant issued in this cause by Honourable court be amended.



- c. It is fair and just that these changes be included in the grant for better winding up of the estate by the applicant.
3. The application is supported by an affidavit sworn by Thomas Wekesa Namasaka who stated as follows;
- a. That I am the Petitioner/Applicant herein and thus competent to swear this affidavit.
  - b. That the proceedings herein relate to the estate of my late father Marko Masinde Namasaka.
  - c. That I with William Masinde Namasaka who is now deceased was issued with certificate of confirmation of grant issued on 22/07/2019.
  - d. That my co-administrator died on 24/07/2016 and there is need to be removed from the role of administrator.
  - e. That grant of letters of administration and certificate was issued to me and my co-administrator in the name Tom Namasaka instead of Thomas Wekesa Namasaka.
  - f. That I am advised by my Advocate on record M/S Allan Mbugua Ngigi which information I trust that it's both necessary and lawful to have the grant amended to reflect these changes.
  - g. That it is fair and just that the grant be amended to enable winding up of the estate.

#### **Decision**

4. This application has been considered and evaluated within the parameters of the affidavit in support of one Thomas Wekesa Namasaka dated 9<sup>th</sup> September 2025. The bone of contention is based on the death of the Administrator William Masinde Namasaka which renders the certificate of confirmation of grant inoperative. Generally the Kenya legal system following the death of an administrator(s) the Court has to look at the circumstances and facts of each specific case.
5. The key legal principles for the court to exercise discretion to make subsequent orders are that: The *Law of Succession Act* does not allow for the direct "substitution" of a deceased administrator by their heir, as a grant of representation is personal. If a sole administrator dies before completing their duties, the existing grant becomes "useless and inoperative through subsequent circumstances" under Section 76(e) of the *Law of Succession Act*. An interested party must apply for the revocation of the original grant and then petition for a fresh grant of administration ( de bonis non administratis). The new administrator is typically chosen based on priority, such as the surviving spouse and children of the original deceased person. If one of several joint administrators dies, the grant remains valid. According to Section 81 of the *Law of Succession Act*, the powers and duties automatically transfer to the surviving administrators, who continue administering the estate.
6. The illustrative authorities in support of the application include the following: In re Estate of George Ragui Karanja (Deceased) [2016] eKLR, which held that the Act does not provide for the substitution of deceased representatives. In re Estate of Mwangi Mugwe Alias Elieza Ngware (Deceased) [2003] eKLR, which established that revocation under Section 76(e) and a new grant are the appropriate steps when a sole administrator dies. In re Estate of Kimeto Arap Kili Sirtui (Deceased) [2024] KEHC 14383 (KLR), where the court dismissed an application for direct substitution and ordered revocation and a fresh application. Changal v Maritim & another (Succession Cause 196 of 2015) [2025] KEHC 8667, which confirmed that the death of one joint administrator does not invalidate the grant, and surviving administrators can proceed.
7. From the evidence and the principles in the caselaw cited the impugned grant cannot be invalidated for reason of the death of William Namasaka as the surviving co-administrator Thomas Wekesa Namasaka



is capable and competent of transmitting the estate with completeness. Thereafter to comply with Section 83 of the Law of Succession Act to present probate account as per law established within a period of six months.

8. For those reasons the certificate of confirmation of grant dated 22<sup>nd</sup> July 2019 shall be reviewed under Section 80 of the Civil Procedure Act as read with Rule 73 (1) of the Probate and Administration Rules and Order 45 Rule 1 of the Civil Procedure Rules to revoke the appointment of the co-administrator William Namasaka and have the Estate transmitted by the surviving co-administrator Thomas Wekesa Namasaka. As a consequence of this, the certificate of confirmation of grant shall be dutifully amended, endorsed by this court and further shared with the Administrator Thomas Wekesa Namasaka to proceed diligently with the administration of the estate. That on completion appropriate account be filed in compliance with Section 83 of the law of Succession Act. It is so ordered.

**DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 18<sup>TH</sup> DAY OF DECEMBER 2025**

.....

**R. NYAKUNDI**

**JUDGE**

