



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Osoro Bosire (Deceased) (Succession Cause 70 of 2014)  
[2025] KEHC 18977 (KLR) (15 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18977 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT KISII**

**SUCCESSION CAUSE 70 OF 2014**

**TA ODERA, J**

**DECEMBER 15, 2025**

**IN THE MATTER OF: ESTATE OF OSORO BOSIRE DECEASED**

**AND**

**IN THE MATTER OF: APPLICATION FOR LETTERS OF ADMINISTRATION**

**IN THE MATTER OF**

**ALFRED OMARIBA BOGONKO ..... APPLICANT**

**RULING**

1. Before me for determination is summons for rectification of certificate for confirmation of grant brought Under Rules 43, 49 and 59 of [Probate and Administration Rules](#), sec 74 of [Laws of Succession Act](#) and all enabling laws supportive.
2. The applicant prays for orders that;
  - a. the certificate of confirmation of grant issued by this honourable court to Alfred Omariba Bogonko on 20<sup>th</sup> day of December, 2018 be rectified as provided for by Rule 43 (1) of the [Probate and Administration Rules](#) so as to allow each beneficiary get his/her exact share of the land parcel coincide with the share on the actual ground.
  - b. upon amendment, the Honourable Court be pleased to issue a rectified certificate of confirmation of grant.
  - c. the cost of this application to be in the cause.
3. Which Application will be grounded on the affidavit of the said Alfred Omariba Bogonko herewith,
4. The summons was accompanied by the supporting affidavit of one Alfred Omariba Bogonko, for reasons that;



- a. The certificate of confirmation of grant to the estate of Osoro Bosire was issued by this Honourable Court on 20th day of December, 2018 but had some notable errors.
- b. The certificate of confirmation of grant issued by this honourable court to Alfred Omariba Bogonko on 20th day of December, 2018 shared the land parcel equally among the four beneficiaries. Which was later realized that according to the ground dimensions, the land was not shared equally hence required an amendment to march the actual ground dimensions for each beneficiary.
- c. One of the beneficiaries, Eunice Bosibori Nyakundi, passed on before they could file this application but her share of the land parcel will be jointly registered in the names of her three sons namely; James Omwenga Nyakundi, Joseph Ongera Nyakundi and Andrew Bogonko Nyakundi.
- d. In the circumstances, prayed that it will only be fair that the court grants the orders for amendment of the certificate of confirmation of grant of the letter of administration so as to enable the family complete the process of administration of the estate which has taken a long time before conclusion.
- e. The family of the above-mentioned deceased person has consented to the decision in this application. This affidavit is in support of the application for rectification of certificate of confirmation of grant.

Issues for determination

5. I have considered the application and the affidavit in support of the same, there is only one issue for determination and that is; whether the court should order the rectification of the grant.

### **Analysis and determination**

6. The jurisdiction of this court to order rectification of grant is granted by Section 74 of the [Law of Succession Act](#). The 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.”
7. 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.”
8. 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 description or in setting forth the time and place of the deceased’s death and place of death of the deceased. In general, terms rectification is meant to correct errors which will not substantially interfere or change the grant and



the certificate of grant. I may also point out that minor errors are what rectification seeks to address. *In the matter of the Estate of Geoffrey Kinuthia Nyamwenga deceased* [2013] eKLR the court 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 or place of 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....”

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 of the confirmation of the grant.”

9. Other matters which may substantially affect the grant are best addressed through an application for review of the Judgment or appeal. The applicants seek rectification of acreage of the portion of land occupied by each beneficiary. This court had relied on the affidavit of the applicants in support of summons for confirmation of grant.
10. I hereby order that the grant be rectified to represent the actual acreage occupied on the ground.
11. There shall be no orders as to cost.

**DELIVERED VIRTUALLY VIA TEAMS PLATFORM ON THIS 15<sup>TH</sup> DAY OF DECEMBER 2025  
IN THE ABSENCE OF:**

**T.A ODERA**

**JUDGE**

**15.12.25**

Parties.

Court Assistant -Ochieng

