

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT ELDORET**  
**SUCCESSION CAUSE NO. 158 OF 2014**  
**IN THE MATTER OF THE ESTATE OF THE LATE MARITA JEROP SONGO**  
**(DECEASED)**  
**CECILIA JEROTICH KIRUI.....APPLICANT**

**Coram: Justice R. Nyakundi**  
**M/S Morgan Omusundi Law Firm Advocates**

**RULING**

1. Before this court is an application by way of Chamber Summons dated 7<sup>th</sup> day of October 2025 seeking the following orders:
  - a. *Spent.*
  - b. *That this Honourable Court do to rectify the grant of letters of administration intestate issued on 22<sup>nd</sup> September 2014 and confirmed on 13<sup>th</sup> July 2015, by substituting the deceased co-administrator namely Christopher Kiptalam Sang, who passed away on 23<sup>rd</sup> June 2016 with his son Elphas Kipkorir Talam.*
  - c. *That upon such substitution, the rectified grant do issue accordingly so as to facilitate full administration of the estate, including the transfer of -the parcel known as Moisbridge/Ziwa Block 8 (Cheptiret Farm) 81 to the rightful beneficiaries in accordance with the confirmed grant and the judgment delivered on 12<sup>th</sup> March 2025.*
  - d. *That this Honourable Court be pleased to make such further or other orders as may be just and expedient in the circumstances.*
2. Which application is premised on the following grounds:
  - a. *That the grant of letters of administration intestate in the estate of the late Maria Jerop Sang were duly issued on 22<sup>nd</sup> September 2014 and*

*confirmed on 13<sup>th</sup> July 2015, jointly in the names of Christopher Kiptalam Sang and Cicilia Jerotich Kirui.*

- b. That the said Christopher Kiptalam Sang (deceased) passed away on 23<sup>rd</sup> June 2016, during the pendency of a legal dispute in which the administrators, as the legal of 2016 over the ownership of the estate property i.e. Moisbridge/Ziwa Block 8(Cheptiret Farm) 81.*
  - c. That following his demise, his son (Elphas Kipkorir Talam) was duly substituted in that case and judgement subsequently delivered on 12<sup>th</sup> March 2025 in favour of the administrators, declaring them the rightful owners of the said property forming part of the estate.*
  - d. That it is now necessary to rectify the confirmed grant to reflect the said substitution so that the son, (Elphas Kipkorir Talam), may lawfully continue as co-administrators so as to complete the administration process.*
  - e. That the rectification will facilitate smooth transfer of the parcel known as Moisbridge/Ziwa Block 8 (Cheptiret Farm) 81 and ensure that the estate is fully administered in accordance with the confirmed grant.*
  - f. That the proposed rectification does not alter the mode of distribution but merely regularizes the representation of the estate in the light of the death of one of the administrators and the substitution already recognized in related proceedings.*
  - g. That all the beneficiaries have consented to the substitution and support the rectification sought herein.*
  - h. That it is in the interest of justice, good order, and efficient conclusion of this long-standing matter that this Honourable Court allows the application as prayed.*
3. In support of the application is the affidavit sworn by the Applicant who deponed as follows:

- a. *I am the surviving administrator of the estate of the late Marita Jerop Sang and as such, I am well seized of the facts and circumstances of this matter hence competent to swear this Affidavit.*
- b. *That the grant of letters of administration intestate in the said estate was issued on 22<sup>nd</sup> September 2014 and confirmed on 13<sup>th</sup> July 2015, jointly in my name and that of Christopher Kiptalam Sang (Annexed and marked CJK-1 is a copy of the confirmed grant).*
- c. *That the said co-administrator, Christopher Kiptalam Sang, passed away on 23<sup>rd</sup> June 2016, during the pendency of a legal dispute i.e. Eldoret Environment and Land Case No. 139 of 2016 which was instituted by us on behalf of the estate*
- d. *That upon his demise, his son (Elphas Kipkorir Talam) was duly substituted in the said proceedings, which were subsequently determined on 12<sup>th</sup> March 2025, in favour of the administrators, declaring the estate the rightful owner of the parcel known as Moisbridge/Ziwa Block 8 (Cheptiret Farm)81.*
- e. *That it is now necessary to rectify the confirmed grant to reflect the said substitution so that the son, Elphas Kipkorir Talam, may lawfully continue as co-administrators so as to complete the administration process including the transfer of the parcel known as Moisbridge/Ziwa Block 8.*
- f. *That all the beneficiaries have consented to the substitution and support the rectification sought herein.*
- g. *That the proposed rectification does not alter the mode of distribution but merely regularizes the representation of the estate in the light of the death of one of the administrators and the substitution already recognized in related proceedings.*
- h. *That it is therefore just and expedient that this Honourable Court rectifies the confirmed grant as prayed.*

## Decision

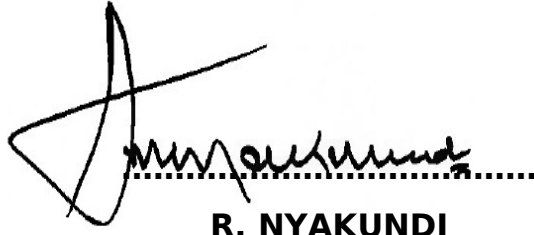
4. The Applicant in this case has moved the court in terms of Section 74 of the Law of Succession Act as read with Rule 43(1) and Rule 73 of the Probate and Administration Rules seeking an order of rectification of letters of administration intestate issued on 22<sup>nd</sup> September 2014 and confirmed on 13<sup>th</sup> July 2015. According to the Applicant one Cecilia Jerotich Kirui the rectification is on the basis that the Deceased Christopher Kiptalam Sang who was a co-administrator passed away on 23<sup>rd</sup> June 2016. There is therefore need for his son Elphas Kipkorir Talam to be appointed as a substitute and in place of the Deceased so that he can complete the stalled transmission of the estate. It is the contention of the Applicant that if the orders of rectification are granted the parcel known as Moi's Bridge/Kisiwa Block 8 (Chepterit Farm) 81 should then be transferred to the beneficiaries in accordance with the confirmed grant and the judgment delivered on 12<sup>th</sup> March 2025. The Applicant relied heavily on the affidavit evidence dated the 7<sup>th</sup> October 2025.
5. It appears from the record that the deceased passed away sometimes back during the pendency of the proceedings in Eldoret Environment and Land Case No. 139 of 2016. That following his demise his son Elphas Kipkorir Talam was duly substituted in that case and the judgment delivered on 12<sup>th</sup> March 2025 in favour of the Administrators declaring them the rightful owners of the same property forming part of the estate. In my considered view in Kenya rectification of grant is a limited legal process governed by Section 74 of the Law of Succession Act and Rule 43 of the Probate Administration Rules. It is designed to correct minor errors misdescriptions of property or inaccuracies in names, dates in a grant either before or after confirmation without substantially changing the distribution of the estate. Substantive changes such as adding forgotten beneficiaries or new assets must be generally handled through a review of the grant rather than rectification. Therefore, the proper trajectory is

first and foremost by dint of Section 76(e) of the Law of Succession Act to revoke the appointment of the Deceased Administrator but sustain the original grant in view of the fact that there is a surviving co-administrator in the name of Cecilia Jerotich Kirui who could have proceeded with the administration of the Estate were it not for her interest that the son of the Deceased by the name Elphas Kipkorir Talam be appointed to replace his father.

6. The Courts in Kenya have power to review their own judgments derived from Section 80 of the Civil Procedure Act and Order 45 Rule 1 of the Civil Procedure Rules. Based on error of fact or mistake apparent on the face of the record, discovery of new and important evidence which was not available earlier during the impugned ruling or judgment or on grounds of sufficient cause within the scope of these provisions discovery of new/important matter of evidence must be evidence that could not be produced earlier despite due diligence and if admitted it changes the outcome of the verdict, when it comes to mistake or error apparent it is an obvious, undeniable error on the face of the record not requiring elaborate arguments and finally sufficient cause is more broader requiring substantial reasons interpreted narrowly.
7. In this matter the fact of death of a co-administrator is not disputed. There is also evidence on record that he died during the pendency of ELC Case No. 139 of 2016. What followed was the appointment of his son by the name Elphas Kipkorir Talam to be substituted as the Claimant on behalf of his deceased father to prosecute or defend the rights which had been violated over the ownership of the Estate property Moisbridge/Ziwa Block 8 (Chepterit Farm/81. What this means is that in this Succession Cause 158 of 2014 there is sufficient reason to appoint him as a co-administrator with Cecilia Jerotich Kirui to administer the intestate estate of the Deceased. It is for these reasons under Section 1A,1B, 3, 3A and Section 80 of the Civil Procedure Act as read with Rule 73 of the Probate

and Administration Rules and in addition with Order 45 Rule 1 of the Civil Procedure Rules to appoint Elphas Kipkorir Talam in accordance with Section 66 of the Law of Succession Act to be part of the Administration of the intestate Estate of the Deceased. Further, it is necessary to mention here that the impugned grant dated 13<sup>th</sup> July 2015 be amended by deleting the name of Christopher Kiptalam Sang and the same be substituted with his son Elphas Kipkorir Talam. As a consequence of which the amended grant shall form the basic structure to facilitate full administration of the estate including the transfer of land parcel known as Moisbridge/Ziwa Block 8 (Chepterit Farm)/81 to the rightful beneficiaries in accordance with the confirmed grant and the judgment delivered on 12<sup>th</sup> March 2025. For purposes of compliance with procedural law Elphas Kipkorir Talam shall be required to fill the necessary mandatory forms under the schedule of the Succession Act as a condition precedent for this Court to regularize his appointment as a co-administrator. The Deputy Registrar of the High Court working with the Registry Manager of the Probate & Administration Section at Eldoret High Court shall facilitate the provision of these forms for signature by the substituted Administrator and thereafter cause the grant to be amended for endorsement and signature by the Judge to effectuate the legal instrument as a transmission tool of the estate to the beneficiaries. This will be in accordance to the amended Certificate of Confirmation of Grant dated 15<sup>th</sup> July 2015. For avoidance of doubt the amended Certificate of confirmation of grant shall be effected not later than 14 days from today's date.

**DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 19<sup>TH</sup> DAY  
OF JANUARY 2026.**

A handwritten signature in black ink, appearing to read 'R. Nyakundi', is written over a horizontal dotted line. The signature is stylized and somewhat cursive.

**R. NYAKUNDI**  
**JUDGE**