



In re Estate of Duncan Ndirangu Ngumi (Deceased) (Succession Cause 338 of 2002) [2026] KEHC 1317 (KLR) (5 February 2026) (Ruling)

Neutral citation: [2026] KEHC 1317 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE 338 OF 2002
DKN MAGARE, J
FEBRUARY 5, 2026**

IN THE MATTER OF THE ESTATE OF DUNCAN NDIRANGU NGUMI (DECEASED)

IN THE MATTER OF

AGNES WANGUI KINYUA APPLICANT

RULING

1. By the Notice of Motion application dated 9.12.2025, the Applicant sought the following reliefs:
 - a. The Grant of Letters of Administration Intestate issued and confirmed in respect of the estate of Duncan Ndirangu Ngumi (Deceased) be rectified and varied to align with the Mediation Agreement dated 3rd June 2025 and adopted by this Honourable Court on 4th June 2025.
 - b. The Title Number Aguthi/Gatitu/2829 which had been registered in the name of Irungu Muriuki Ngacha and Anne Waniru Irungu prior to the Mediation and without transmission from the estate, be cancelled and the property reverted to the name of the deceased Duncan Ndirangu Ngumi.
 - c. Upon such reversion, the said property be transmitted to Agnes Wangui Kinyua and Agnes Wachera Ndirangu in accordance with the Mediation settlement adopted by this Honourable Court.
 - d. The said Administrators be authorized to transfer the said property to the purchasers, Irungu Muriuki Ngacha and Anne Wanjiru Irungu in fulfillment of the mediation terms.
 - e. The Land Registrar, Nyeri County be directed to effect the said cancellation, reversion and transfer accordingly.
2. The application was supported by the Affidavit of the Applicant who deposed as follows:
 - a. The parties entered into a mediation agreement dated 3rd June 2025 and adopted by this court on 4th June 2025.



- b. The Mediation resolved distribution of the estate but did not address the cancellation/reversion of the title No. Aguthi/Gatitu/2829 which had been registered before the Mediation and outside lawful transmission.
 - c. The omission had rendered the implementation of the mediation agreement irregular.
 - d. The property must revert to the name of the deceased to enable transmission and final settlement.
 - e. No party will be prejudiced.
3. The application was not opposed. Rectification of grant is provided for in Section 74 of the [Law of Succession Act](#), Cap 160 Laws of Kenya and Rule 43(1) of the Probate & Administration Rules. Section 74 provides as follows:-

Errors in names and descriptions, or in setting forth 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.

4. Rule 43(1) provides:-

Where the holder of the grant seeks pursuant to the 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 place 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.

5. The errors that can be corrected through rectification include errors in names, description of any person or thing or an error as to the time or place of death of the deceased or the purpose for which a limited grant was issued. As was observed by Muchemi J in *In re Estate of Kahiga Mwathi (Deceased)* [2022] eKLR, rectification of grant of letters of administration is limited to matters set out in Section 74 of the [Law of Succession Act](#) in principal to corrections of error which the court may order without changing the substance of the grant. These include errors in names, description of any person or thing or an error as to the time or place of death of the deceased or the purpose for which a limited grant was issued. An error which is envisaged under the section is a mistake which may occur on the face of the grant like typing errors in names of persons or things. As was held in the matter of the Estate of Hasalon Mwangi Kahero [2013] eKLR:

“An error is essentially a mistake. For the purposes of Section 74 and Rule 43, it must relate to a name or description or time and place of the deceased's death, or the purpose of a limited grant. Is an omission of a name or in the description of a thing an error? It would be an error if say, a word in the full name of a person is omitted or a word or number or figure in a description is omitted. But where the full name of a person or a full description of a thing or property is omitted, it would be stretching the meaning of the word “error” too far to say that that would amount to the error or mistake envisaged in Section 74 and Rule 43.”

6. The nature of the errors sought to be rectified herein relate to the amendment of the grant to align with the Mediation Agreement dated 3.6.2025 and adopted by this court on 4.6.2025. It was averred that the Mediation resolved distribution of the estate but did not address the cancellation/reversion of the title No. Aguthi/Gatitu/2829 which had been registered before the Mediation and outside lawful



transmission. In In the Matter of the Estate of Geoffrey Kinuthia Nyamwinga (Deceased) [2013] eKLR, it was stated that:-

“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 the time or place of the 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.”

7. Be that as it may, there is mediation agreement and the parties are still agreeable to realigning the grant with the Mediation Agreement to enable a smooth and meaningful completion of the distribution of the property of the deceased.
8. In the absence of any evidence of prejudice to a party, I have no reason to disallow the application. I allow it.

Determination

9. In the upshot, I make the following orders:-
 - i. The application dated 9.12.2025 is merited and is allowed.
 - ii. The Grant of Letters of Administration Intestate issued and confirmed in respect of the estate of Duncan Ndirangu Ngumi (Deceased) is hereby rectified and varied to align with the Mediation Agreement dated 3rd June 2025 and adopted by this Honourable Court on 4th June 2025.
 - iii. The Title Number Aguthi/Gatitu/2829 which had been registered in the name of Irungu Muriuki Ngacha and Anne Waniru Irungu prior to the Mediation and without transmission from the estate is hereby cancelled and the property is reverted to the name of the deceased Duncan Ndirangu Ngumi (Deceased) for transfer as per the certificate of confirmation.
 - iv. The Land Registrar, Nyeri County is hereby directed to effect the said cancellation, reversion and transfer accordingly.
 - v. Each party shall bear own costs.

**DELIVERED, DATED AND SIGNED AT NYERI ON THIS 5TH DAY OF FEBRUARY, 2026.
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

KIZITO MAGARE

JUDGE



In the presence of: -

Mr. Macharia for the Applicant

Mr. Wabandi Gacheru for the Respondent

Court Assistant – Michael

