



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Kibos (Deceased) (Succession Cause 169 of 2007)
[2026] KEHC 3163 (KLR) (10 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3163 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 169 OF 2007**

RN NYAKUNDI, J

MARCH 10, 2026

**IN THE MATTER OF THE ESTATE OF KOTUT KIPKOECH
KIBOS ALIAS KOTUT ARAP KIBOS (DECEASED)**

**EXPARTE SUMMONS FOR RECTIFICATION
OF GRANT OF LETTES OF ADMINISTRATION**

**SECTION 74 AND 76 (E) OF THE LAWS OF SUCCDESSIONC AP 160 LAWS OF KENYA
AND RULES 43 (1) AND 74 OF THE PROBATE AND ADMINISTRATION RULES**

RULING

1. Before this court is an application seeking the following orders:-
 - i. That Service of this application be dispensed with in the first instance
 - ii. That the Grant of Letters of Administration and the confirmation of the said grant issued to Cheruiyot Katam be rectified
 - iii. That Benjamin Kipkorir Komen be substituted on the certificate of confirmation of Grant of letters of administration in place of Cheruiyot Katam (deceased)
 - iv. That costs be in the causeWhich application will be grounded on the annexed affidavit of Benjamin Kipkorir Komen filed herein and the nature of the cause and on the ground
 - i. That the Grant of Letters of Administration was issued by the court on the 20th day of June 2016 and the same was confirmed by the court on the 16th day of July, 2019
 - ii. That the aforesaid confirmation of Grant of letters administration was issued based on the entire Cheboen Farm Kipkabus LR No 7560
 - iii. That the aforesaid Cheruiyot Katam died before the final distribution of the Estate



- iv. That Cheruiyot Katam be substituted with Benjamin Kipkorir Komen to compete the distribution of the said Estate and the Beneficiaries to get their rightful shares herein.
2. It is supported by an affidavit sworn by BENjamin Kipkorir Komen which states as follows:-
 - i. That Iam a male adult of sound mind hence competent to swear this affidavit
 - ii. That I am one of the Beneficiaries of the Estate of Kotut Kipkoech Kibos alias Kotut Arap Kibos (deceased
 - iii. That Iam one of the Beneficiaries of the Estate of Kotut Kipkoech Kibos Alias Kotut Arap Kibos (Deceased)
 - iv. That I have been authorized by the other Beneficiaries of the Estate to swear this Affidavit on their behalf
 - v. That the aforesaid Cheruiyot Katam died on the 3rd day of March, 2022 before being registered as Proprietor by Transmission as stipulated under the Law of Succession. Copy of the Death Certificate is annexed hereto and marked BKK 1.
 - vi. That the Grant of Letters of Administration Intestate were issued by this Honourable Court on the 20th day of June, 2016 as per the attached copy marked 'BKK 2'.
 - vii. That the Certificate of Confirmation of the aforesaid Grant was issued by the Court on the 16" day of July, 2019. Copy of the same is annexed hereto and marked 'BKK 3'.
 - viii. That all other Beneficiaries of the aforesaid Estate held a meeting on 29th January, 2025 before the Area Chief and agreed amicably to have the said Estate distributed and each member gets his or her rightful share. Copies of the Area Chief's letter and the member's minutes are annexed hereto and marked BKK 4 and BKK 5.
 - ix. That I urge and or request the Honourable Court to rectify the Grant of Letters of Administration and Confirmation of the said Letters and each Beneficiary to be issued with their rightful share.
 - x. That I swear this Affidavit in support of the application for substitution and rectification of the Grant of Letters of Administration and Confirmation of the said Grant issued herein to enable us to finalize the distribution of the Estate herein.
 3. In the context of the above summons for rectification the beneficiaries on 9.3.2026 in the matter of the estate of the deceased covenanted as follows:

Whereas the above named Kotut Kiprofor Kibos Alias Kiotut Arap Kibos Kipkabus who died on 3rd March 2022 intestate and Cheruiyot Katam was issued with his letters of Administration to his Estate. and Whereas we, Joseph Koskei, Joseph Komen, Isaac Kutto Christopher Komen, David Kotut, Joh Rotich, Julius Maiyo, Philip Kiplagat, Samuwel Chirchir, Joseph Kimeli, David K. Rono, James Kiplagat, Samuel K Tanui, William Kibet, Rael Cheruiyot, David K, Yator, Joseph K Ktuitokek, Isaack Mutung, Hudson K Korir, Nicholus K Chebaigel, Annah C Kiplagat, Everline J Kosgei, Christina Kimisoi, Nelly J Kemboi, Willima K Mutung, Gilbet Kipkogei Kosgei, Patrick Kopkoskei, Barnabas Kipropro, Philip K Kutto. Andrew Rono, Moses K Rotich, Robert K Kosgei, Kennedy Kosgei, Stephen Kiplagat, Amos Kibiwott Tanui, George Kosgei, Micah Tanui, Felix Kibet, Ezekiel Kosgei, Paul K Kiplgat, Kiprono Kosgei and Hudson Kiplagat we are entitled to apply for letter of administration to the estate of the said Kotutu Kipkoech Kibos alias



Kotutu Arap Kibos in equality with or priority to Benjamin Kipkorir Komen of P.O. Box 14 Kipkobos but nevertheless we are agreeable to the said Benjamin Kipkorir Komen so applying

Now we the said Joseph Koskei, Joseph Komen, Isaac Kutto, Christopher Komen, David Kutto, John Rotich, Julius Maiyo, Philip Kiplagat, Samuel Chirchir, Joseph Kimeli, David K Rono, James Kiplagat, Samuel K Tanui, William Kibet, Rael Cheruoyot, David K Yator, Joseph Koitoek, Isaac K Mutun, Hudson K Korir, Nicholus K Chebaigei, Annah C Kiplagat, Everline J Kosgei, Christina Kimiso, Nelly J Kemboi, William K Mutung, Gilbert Kipkosgei Kogei, Parick Kopkoskei, Barnabas Kirpono, Philip K Kutto, Andrew Rono, Moses K Rotich Riobert K Kosgei, Kennedy Kosgei, Stephen Kiplagat, Amos Kibiwott Tanui, George Kosgei, Micah Tanui, Felix Kibet, Ezekiel Kosgei, Paul K Kiplagat, Kiprono Kiosgei and Hudson Kiplagat all of Box 14 Kipkabos do hereby consent to letters of administration to the estate of the said deceased being granted to the said Benjami Kipkorir Komen

Signed by the said

Chebogen Farm Members

Name Id No

1. Joseph Koskei xxxxxxxx
2. Joseph Komei xxxxxxxx
3. Isaac Kutto xxxxxxxx
4. Christopher Komen xxxxxxxxx
5. David Kutto xxxxxxxx
6. John Rotich xxxxxxxx
7. Julius Maiyo xxxxxxxx
8. Philip Kiplagat xxxxxxxx
9. Samuel Chrichri xxxxxxxx
10. Joseph Kimeli xxxxxxxx
11. David K Rono xxxxxxxx
12. James Kiplagat xxxxxxxx
13. Samuel K Tanui xxxxxxxx
14. William Kibet xxxxxxxx
15. Rael Cheruyot xxxxxxxx
16. David K Yator xxxxxxxxx
17. Joseph K Tuitoek xxxxxxxxx
18. Isaac K Kutung xxxxxxxx
19. Hudson K Korir xxxxxxxx



20. Nicholus K Chebaigei xxxxxxxx
21. Annah C Kiplagat xxxxxxxx
22. Everline J Kosgi xxxxxxxx
23. Christina Kimiso xxxxxxxx
24. Nelly J Kemboi xxxxxxxx
25. William K Mutung xxxxxxxx
26. Gilbert Kipkogei Kosgei xxxxxxxx
27. Patrick Kopkoskei xxxxxxxx
28. Barnabas Kiprono xxxxxxxx
29. Philip K Kutto xxxxxxxx
30. Andrew Rono xxxxxxxx
31. Moses K Rotich xxxxxxxx
32. Robert K Kosgei xxxxxxxx
33. Kennedy Kosgei xxxxxxxx
34. Stephen Kiplagat xxxxxxxx
35. Amos Kibiwot Tanui xxxxxxxx
36. George Kosgei xxxxxxxx
37. Micah Tanui xxxxxxxx
38. Felix Kibet xxxxxxxx
39. Ezekiel Kosgei xxxxxxxx
40. Paul K Kiplagat xxxxxxxx
41. Kiprono Koskei xxxxxxxx
42. Hudson Kiplagat xxxxxxxx
43. David Kibet Komen xxxxxxxx
44. Obadia Sang Komen xxxxxxxx

4. Given this background, the question to be answered is whether this is a matter to be decided within the scope of rectification of grant or under the legal premise of review.

Decision

5. Rectification of a grant in Kenya is a process governed by section 74 of the *Law of Succession Act* and Rule 43 of the Probate and Administration Rules. Used to correct minor, clerical or accidental errors is a grant. It is not a mechanism for substantive changes to the beneficiaries or major alterations to the estates composition.



6. Section 74 provides as follows: “74. Error may be rectified by Court: “ Errors in names and description, 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 altered and amended accordingly.

Rule 43 (1) Provides as Follows: “ Where the holder of a 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 or 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.”

7. The following cases demonstrate the spectrum of the principles on rectification:
- a. In re Estate of Jonah Kiprotich Arap Tuwei [2025]: Allowed rectification for a typographical error in land acreage. .
 - b. In re Estate of Wambugu Ngera [2022]: Approved correcting beneficiary names and clerical errors via Kenya Law Reports. .
 - c. In re Estate of John Ngacha Ng'ang'a [2023]: Confirmed that adding omitted properties constitutes a substantial amendment, not a minor rectification.
 - d. In re Estate of Sawe Maina [2023]: Highlighted that substantial consensus among beneficiaries can support rectification of the grant.
8. These provisions and the case law have been weighed alongside the substance of the summons on rectification dated 21.1.2026. The gist of it according to the Applicant is that the character of the certificate of confirmation of grant issued on 16.7.2019 which remains untransmitted is to be in a way to be in consonant with the consent dated 9.3.2026 to revoke appointment of Cheruiyot Katam duly appointed as an administrator but unfortunately he has since passed on rendering the certificate of confirmation of grant non-operative that it is for the interest of justice that a new administrator by the name Benjamin Kipkorir Komen be appointed under Section 66 of the operative statute so that he can be able to step into the shoes of the deceased to transmit the estate as stipulated in the final decree of this court on distribution dated 16.7.2019
9. From the above analysis, the rectification is not the proper legal sense to invoke discretion of this court for the proper legal provision in Section 76 of the Act as read with Rule 73(1) of the Probate and Administration Rules. In furtherance to this application the court places reliance on Section 80 of the *Civil Procedure Act* and Order 45 Rule 1 of the Civil Procedure Rules which allows for review if new, relevant evidence which generally was not available during the original proceedings and this is about the death of the administrator which came into existence after the certificate of confirmation was duly signed and the administration was vested in the now deceased person.
10. It is for these reasons a new administrator by the name Benjamin Kipkorir stands appointed under Section 66 of the *Law of Succession Act* to diligently and faithfully complete transmission of this estate to the beneficiaries as per the decree of the court dated 16.7.2019. That by dint of this order the probate registry Eldoret shall amend the grant which revokes the deceased administrator by the name Cheruiyot Katam and have him replaced with Benjamin Kipkorir Komen forthwith. Thereafter, under Article 48 of *the constitution* on access to justice the Deputy Registrar of the High Court shall cause this file docket to be transferred to Iten sub-registry for management and compliance with the transmission orders. The matter therefore shall be mentioned before the Deputy Registrar holding forth at Iten Law Courts for monitoring and compliance of the amended grant and its protocols.



GIVEN UNDER MY HAND AND SEAL OF THIS COURT THIS 10TH DAY OF MARCH 2026

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R. NYAKUNDI

JUDGE

