



**In re Kiriuki alias Hezekiah Machari (Deceased) (Family Miscellaneous Application E003 of 2024) [2026] KEHC 3051 (KLR) (Family) (10 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3051 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYANDARUA  
FAMILY  
FAMILY MISCELLANEOUS APPLICATION E003 OF 2024**

**KW KIARIE, J**

**MARCH 10, 2026**

**IN THE MATTER OF THE ESTATE OF:  
HEZEKIA MACHARIA KIRUKI ALIAS HEZEKIAH  
MACHARIA KIRUKI ALIAS HEZEKIAH MACHARI**

**BETWEEN**

**RUTH WAIRIMU MACHARIA ..... APPLICANT**

**AND**

**ANNE WANJIKU WARUI ..... RESPONDENT**

**RULING**

1. Ruth Wairimu Macharia, the applicant herein, has moved the court by way of Chamber Summons dated the 12<sup>th</sup> day of November 2025. The application is brought under Section 74 of the [Law of Succession Act](#), Rule 43 & 63 of the Probate and Administration Rules, sections 1A, 1B, 3A of the [Civil Procedure Act](#) & Order 45 Rule 1 of the Civil Procedure Rules and Article 159 of [the Constitution](#) of Kenya. She is seeking the following orders:
  - a. This application be certified as urgent and be heard ex parte and service of the same be dispensed with in the first instance. [Spent]
  - b. This honourable court be pleased to reopen the file which was closed on the 17<sup>th</sup> day of June 2025 and have the matter herein reinstated for purposes of prayer (3) and (4) hereof.
  - c. The honourable Court be pleased to review, rectify, vary, rescind, clarify and/or set aside the ruling delivered by Honourable Justice Charles Kariuki 20<sup>th</sup> December 2024 more particularly at paragraph 97 of the said ruling and find that there is an error and/or mistake apparent on the face of the said ruling.



- d. Substitute thereof, this honourable court be pleased to have the estate of the deceased distributed in accordance with the protestor's /applicant's proposed mode of distribution.
  - e. Consequential to prayer (4) above, the honourable court be pleased to have the certificate of confirmation of Grant herein issued on 2<sup>nd</sup> October 2025 rectified and/or amended accordingly to properly capture the names of the beneficiaries and the enlisted assets as per the protestor's/applicant's proposed mode of distribution.
  - f. The costs of this application be provided for.
2. The application was premised on the following grounds:
- a. Upon delivery of the said ruling and upon a thorough perusal of the same thereof, it is pellucid that there is a mistake and an error apparent on the face of the said ruling, which error/mistake the applicant seeks to have the same reviewed rectified, varied, rescinded, clarified and/or set aside to in any eventuality reflect the actual intention of the honourable judge and generally the substratum of application that culminated the said ruling.
  - b. That unless the file is reopened, the matter herein reinstated and the orders for review allowed, it is pellucid that the actual intention of the honourable judge and generally the substratum of application that culminated the said ruling will watered down under the bridge against the basic tenets of section 38 and section 40 of the *Law of Succession Act* and against the legitimate expectation of the applicant herein together with the other beneficiaries who had reached a consensus ad idem on the node of distribution.
  - c. It is in the interest of justice that the file be reopened and the matter herein is reinstated so as to protect the estate of the deceased and subsequently take directions for rectification of the certificate of confirmation of grant.
  - d. No prejudice will be suffered if the orders herein sought are granted.
3. The respondent supported the application.
4. Both parties went to slumber after the ruling dated the 20<sup>th</sup> day of December 2024 was delivered. Had they not, they should have moved the court to effect the necessary rectification in due course.
5. The Application for the reopening of the file and rectification of the certificate of confirmation is allowed, and the administrators are given 90 days to distribute the estate. The matter will be mentioned on 23<sup>rd</sup> June 2026 for compliance with section 83 (g) of the *Law of Succession Act*.
6. Each party will bear its own costs.

**DELIVERED AND SIGNED AT NYANDARUA, THIS 10<sup>TH</sup> DAY OF MARCH 2026**

**KIARIE WAWERU KIARIE**

**JUDGE**

