



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Ibrahim Obilo Raloki (Deceased) (Probate & Administration
E009 of 2022) [2026] KEHC 3080 (KLR) (3 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3080 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
PROBATE & ADMINISTRATION E009 OF 2022**

REA OUGO, J

MARCH 3, 2026

IN THE MATTER OF THE ESTATE OF IBRAHIM OBILO RALOKI (DECEASED)

BETWEEN

FELISTA OBILO ALOKI 1ST APPLICANT

EUNICE OBILO KALOKI 2ND APPLICANT

GEORGE ARONDO OBILO 3RD APPLICANT

ENOCK ZANN OBILO 4TH APPLICANT

AND

LEAH NEKESA BUNYASI RESPONDENT

RULING

1. The Plaintiff filed the present Application via Chamber Summons dated 2nd July 2025 under Section 74 of the *Law of Succession Act*, seeking the following Orders: -
 1. Spent
 2. That this Honourable Court be pleased to further amend the amended Certificate of Confirmation of Grant issued on 16th December 2024 in terms of acreage in respect of Felistus Obillo Aloki To Be Apportioned 7.9 Acreage Instead Of 5.1 Acreages And Leah Nekesa Bunyasi initial acreage 9.8 be curved off to 9.0 acreages in tandem with the surveyor's report dated 30th June 2025 in which the Respondents have since consented via consent dated 2nd July 2025.
 3. That upon granting the prayers above, the Officer Commanding Kapchoge Police Station and the chief Ndalul location be ordered and directed to ensure compliance of the above order.
 4. That the costs be in the cause.



2. The application is supported by the affidavit dated 2nd July 2025, sworn jointly by Felista Obilo Aloki, Eunice Obilo Kaloki, George Arondo Obilo, and Enock Obilo, in which they state that the Grant, as confirmed, contained errors in the acreages; that the court had given them permission to distribute and share the estate of the deceased as per the confirmed Grant; and that they had entered into a consent indicating the correct acreage to be shared among the beneficiaries, as recorded in minutes dated 30th June 2025. They further state that the Certificate of Confirmation of Grant could not be executed due to the said anomalies and that the Respondent ought to be compelled to vacate and release the excess shares to enable the completion of the process, hence the present application.
3. The Respondent filed a Replying Affidavit dated 17th July 2025, in which she stated that she had never been served with the Application and only learned of it when she asked her legal counsel to find out what it was about. She further stated that her legal counsel downloaded the Application from the court's Case Tracking System (CTS) and discovered that it sought a rectification of the Grant, which would reduce her acreage from 9.8 to 9.0 acres. She also stated that she could neither read nor understand the English language, and that the Applicants approached her with papers she could not read and asked her to sign them so they could be lodged at the Lands Registry for her to be given her title deed.
4. The Respondent further stated that she believed the Applicants and signed the documents accordingly, unaware that she was consenting to the land being reduced by 0.8 acres. She asserted that the Certificate of Confirmation issued by the Court should not be amended and that the Applicants had unlawfully removed her boundary, alienating 0.8 acres of her land to themselves. She urged the Court not to amend the Certificate of Confirmation and argued that the survey map the Applicants referred to could not be downloaded by her advocate, as it was not available on CTS.
5. The Applicants filed a further Affidavit dated 2nd October 2025, in which they stated that the Respondent's affidavit was an afterthought and misguided, and that she was lying under oath, based on her statements in paragraphs 7, 8, 9 and 10. They argued that if she had truly been defrauded into signing the consent, she should have taken criminal action against the Applicants. It was further argued that the Respondent did not present any documentary evidence in court to prove that her late husband, Mr. Bunyasi, had purchased land constituting part of the deceased's Estate, amounting to 9.8 acres. They stated that the Surveyor's report was clear that the Respondent was occupying an additional portion, since their father had only sold 9.0 acres, and that the extra land was to be shared between Eunice Obilo Kaloki and Enock Zann Obilo. They also argued that the claims that they uprooted the boundaries were simply hearsay, as she never attached any surveyor's report nor prosecuted them in court for malicious destruction of property.
6. It was further argued that the Respondent should have applied to the Court to set aside the consent dated 30th June 2025 if she was indeed misled into signing it; that it was not clear why she changed her mind, yet from her oral submissions she conceded occupying only 9.0 Acres and was now in illegal occupation of 9.8 Acres. They argued that he who alleges must prove, and that in this case the Respondent did not meet her burden of proof.
7. The Applicants stated in their affidavit that, in any event, the Respondent should be ordered to produce the agreement for the purchase of 9.8 acres pertaining to parcel No. BUNGOMA TONGAREN/144, and that it was unjust for the Respondent to exploit their father's demise to disinherit them of their lawful share of the estate. They argued that the 9.8 acres recorded in the Certificate of Confirmation of Grant was an error by the administrator, which they sought to correct in accordance with the Court's orders.



8. The Applicants stated that the Respondent had attached succession documents unfamiliar to them and that these should be struck out by the court due to improper filing of pleadings; they argued that the beneficiaries had extensively developed the estate, as shown by the photographs, and that they should not be penalised for the administrator's errors regarding the acreage. They urged the Court to find their application justified and contended that her Replying Affidavit did not demonstrate any reason for her to be allocated the additional 0.8 acres.
9. No submissions were filed in respect of this Application. I will therefore proceed to decide on it based on its merits. The primary issue for my decision is whether the Application for rectification of Grant is justified and should be granted.

Analysis And Determination

10. The law governing rectification of Grant is premised on Section 74 of the Law of Succession as follows: -
 74. 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.
11. Rule 43(1) of the Probate and Administration Rules further provides:
 1. 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.
12. It follows then from Section 74 that, rectification can only occur under the following circumstances:
 - a. Errors in names and descriptions of persons or things;
 - b. Errors as to time or place of death of the deceased; or
 - c. In cases of a limited grant, the purpose for which such limited grant is made.(see Estate of Hasalon Mwangi Kahero [2013] eKLR)
13. In the case of Re estate of Charles Kibe Karanja (Deceased) [2015] eKLR, Musyoka J in interpreting section 74 of the Act explained as follows:-

“From the wording of Section 74, it is plain that the same was not tailored to for amendment of such documents as certificates of confirmation of grant, but rather of grants of representation themselves, be they full or limited, confirmed or not. A party wishing to have rectified or altered or amended a certificates of confirmation of grant, need not approach the court through Section 74 of the *Law of Succession Act*, for the reasons that I have given above; rather they ought to apply for review of the orders made upon the application for confirmation of grant, where the alterations sought are fundamental; or for amendment of the certificate under Rule 73 of the Probate and Administration Rules to address minor errors or mistakes in the body of the certificate. A certificate of confirmation of grant is by its nature a formal order extracted from the orders made by the court on the application for confirmation of grant. If a party wishes to have the assets of the estate redistributed or there is discovery of new assets that were not available or had not been discovered at the time of distribution, among others; it would be imprudent to seek rectification or alteration



or amendment of the certificate of confirmation of grant. Such changes are fundamental, not superficial. They go to the core of the distribution. They cannot be effected without touching the orders made by the court at the distribution of the estate. Consequently, such changes cannot and should be effected through a mere amendment of the certificate of confirmation of grant.”

14. I note that the main dispute in this case is that the Respondent was allocated excess acreage, which the Applicants sought to rectify through this Application. The parties had also previously sought an amendment of the Grant, and this Court issued a Certificate of Amendment of Confirmation of Grant dated 16th December 2024. At the same time, reliance was placed by this Court (differently constituted—Hon. Kemei J.) on the affidavit of the Applicants that was filed alongside the summons for confirmation of the grant in confirming the Grant.
15. The main issue, therefore, is whether the alleged mistake or error by the administrator regarding acreage falls within the categories outlined in Section 74 of the Act.
16. From my analysis of the evidence adduced in the affidavits supporting and opposing the Applications, it is evident that the issue of acreage is not straightforward for the parties. Instead, it has raised contentious issues that require further investigation. The Respondent stated that she was deceived into signing a document she did not understand, based on the promise that she would obtain her title from the Lands Registry. Conversely, the Applicants argued that she was being dishonest and was occupying more acres than their father had sold to her deceased husband.
17. The mistake the Applicants seek to have the Court rectify is a substantive one involving a reallocation of acreages within the deceased’s Estate and the beneficiaries’ entitlements. This matter requires a remedy other than merely amending the confirmed Grant. This court does not have the jurisdiction to determine the acreage of a parcel of land after the grant has been confirmed. I decline to grant the orders sought. Each party shall bear its own costs.

DATED, SIGNED AND DELIVERED AT BUNGOMA ON THIS 3RD DAY OF MARCH 2026.

R.E. OUGO

JUDGE

In the presence of:

Enock Zann Obilo

Mr. Omukunda -For the Respondents

Wilkister – C/A

