



Magati & 2 others v Onsomu & another (Probate & Administration E005 of 2024) [2026] KEHC 2840 (KLR) (5 February 2026) (Ruling)

Neutral citation: [2026] KEHC 2840 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
PROBATE & ADMINISTRATION E005 OF 2024**

TW CHERERE, J

FEBRUARY 5, 2026

IN THE MATTER OF THE ESTATE OF ESTHER KEMUNTO ONSOMU (DECEASED)

AND

**IN THE MATTER OF SUO MOTU RECTIFICATION OF THE CERTIFICATE
OF CONFIRMATION OF GRANT DATED 23 RD OCTOBER 2025**

UNDER RULE 73 OF THE PROBATE AND ADMINISTRATION RULES

BETWEEN

**EVERLYN M MAGATI 1ST PETITIONER
MARY KEMUNTO MONARI 2ND PETITIONER
PHILIS KEMUMA MONARI 3RD PETITIONER**

AND

**MARY MORAA ONSOMU 1ST PROTESTOR
HENRY MORANGA OSIEMO 2ND PROTESTOR**

RULING

1. This Court delivered its judgment in this cause on 23rd October 2025, wherein it confirmed the Grant of Letters of Administration Intestate and determined the mode of distribution of the estate. The Court expressly ordered that the estate, namely Land Parcel No. NYANSONGO/SETTLEMENT SCHEME/111, shall be distributed equally among the four children of the deceased or their respective beneficiaries, as proposed in the affidavit in support of the Summons for Confirmation of Grant. A Certificate of Confirmation of Grant was subsequently issued on the same date pursuant to that judgment.



2. Although no party to these proceedings has moved the Court for rectification of the Certificate of Confirmation of Grant, the Court has, upon its own examination of the record, and in particular the the judgment delivered on 23rd October 2025 and the Certificate of Confirmation of Grant issued pursuant thereto observed that the certificate does not accurately reflect the orders contained in the judgment.
3. The discrepancy is apparent on the face of the record and is attributable to an error arising at the stage of extraction of the certificate, rather than to the substance of the Court’s determination or to any dispute between the parties.
4. Rule 73 of the Probate and Administration Rules expressly preserves the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. That inherent power includes the authority of the Court to ensure that its own records and instruments faithfully reflect its decisions.
5. The Court of Appeal has affirmed the propriety of rectifying errors apparent on the face of a Certificate of Confirmation of Grant in JGN v DKN [2023] KECA 1463 (KLR). In that decision, the appellate court dismissed an appeal challenging such rectification and upheld the principle that correction of a certificate to align it with the judgment of the court does not amount to a redistribution of the estate or a re-determination of substantive rights, but rather serves the proper administration of the estate. While the rectification in that case was made pursuant to an application, the principle affirmed is that a probate court is not required to perpetuate an error on the face of its own record where the effect of correction is merely to give effect to its judgment.
6. In the present case, the intervention is confined to aligning the Certificate of Confirmation of Grant with the judgment of the Court. Declining to act would permit a procedural error to undermine the clarity and accuracy of the Court’s orders.
7. In the circumstances, the Court is satisfied that it is both lawful and necessary, in exercise of its inherent jurisdiction preserved under Rule 73 of the Probate and Administration Rules, to rectify the Certificate of Confirmation of Grant suo motu, in order to give effect to the judgment of the Court and to meet the ends of justice.

ORDERS

8. From the foregoing analysis, it is hereby ordered:
 1. The Certificate of Confirmation of Grant dated 23rd October 2025 is hereby rectified suo motu so as to bring it into full conformity with the judgment delivered on 23rd October 2025, which confirmed that:

“The estate, namely Land Parcel No. NYANSONGO/SETTLEMENT SCHEME/111, shall be distributed equally among the four children of the deceased or their respective beneficiaries, as proposed in the affidavit in support of the Summons for Confirmation of Grant.”
 2. The Deputy Registrar shall forthwith issue a rectified Certificate of Confirmation of Grant strictly in accordance with the judgment delivered on 23rd October 2025 and the orders herein.

DELIVERED AT NYAMIRA THIS 05th DAY OF February 2026

WAMAE.T. W. CHERERE



JUDGE

Appearances

Court Assistant - Hilda

For Protestors/Applicants - Ms. Nyaenya for Bosire Gichana & Co. Advocates

For Petitioners/Respondents - Mr. Ogari for Bonuke & Co. Advocates

