



**In re Githaiga (Deceased) (Succession Cause E559 of 2023)
[2026] KEHC 3643 (KLR) (Family) (12 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3643 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE E559 OF 2023
EKO OGOLA, J
MARCH 12, 2026
IN THE MATTER OF THE ESTATE OF ROSEMARY MAJALA GITHAIGA (DECEASED)
IN THE MATTER OF
ANTHONY GITHAIGA GICHORA APPLICANT**

RULING

1. The application before the court is dated 27th November 2025. The applicant sought the following orders:
 - a. The Honourable Court be pleased to review, amend, and or vary its Orders of 14th December 2023 and the Certificate of Confirmation of Grant issued to Anthony Githaiga Gichora dated 14th December 2023.
 - b. The Honourable Court be pleased to review, amend, and include in the schedule of distribution of the assets of the deceased, the following assets which were discovered after the hearing of the summons for confirmation of grant, and confirmation of the grant:
 - i. Investment in Balanced and Equity Funds held at Britam Asset Managers (Kenya) Limited, Account Number BA06016; and
 - ii. Shares held in Uchumi Supermarket PLC through CDSC account number 0XXXXXXXXXX37 held through Kingdom Securities Limited.
 - c. The Honourable Court be pleased to confirm the distribution of the said funds to Githaiga Asset Holdco Limited, in which each of the beneficiaries has an equal shareholding and control as follows:
 - i. Anthony Githaiga Gichora- 30 shares- Director



- ii. Wangechi Githaiga- 30 shares – Director
 - iii. Gichora Githaiga- 30 shares- Director
- d. After the confirmation of the distribution of the above assets, this Honorable Court be pleased to issue an Amended Certificate of Confirmation of Grant.
2. The application is grounded on the fact that after confirmation of the grant, the applicant discovered additional assets belonging to the deceased which had not been included in the schedule of distribution. These assets include investments held at Britam Asset Managers (Kenya) Limited and shares in Uchumi Supermarkets PLC held through a CDSC account at Kingdom Securities Limited.
3. The applicant obtained confirmation from the relevant institutions that the assets belong to the deceased. All beneficiaries have consented to the inclusion of these assets and to their transfer to Githaiga Asset Holdco Limited, a family-owned company in which the three beneficiaries hold equal shares (30 shares each) and serve as directors.

Determination

4. The principal issue for determination is whether this Court has jurisdiction to review and amend a confirmed grant to include assets discovered after confirmation, and if so, whether sufficient grounds have been established.
5. Under Rule 63 of the Probate and Administration Rules, certain provisions of the Civil Procedure Rules are expressly imported into succession proceedings. Among the provisions imported is Order 45 of the Civil Procedure Rules, which governs applications for review. Accordingly, review under the Civil Procedure Rules is permissible in succession matters where the circumstances fall within the parameters set out in Order 45. Order 45 allows review where there is discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the applicant at the time the decree or order was made.
6. In the present case, the discovery of additional estate assets after confirmation of grant constitutes new and important matter that was not within the knowledge of the administrator at the time of confirmation. The applicant has demonstrated that the omission was not deliberate but arose from subsequent discovery.
7. The Applicant has demonstrated that the additional assets belonged to the deceased; that the assets were discovered after confirmation of grant; that the omission was not deliberate; that all beneficiaries have consented to the proposed distribution; and that the application has been brought without undue delay. No prejudice has been demonstrated, and there is no contest regarding entitlement.
8. In the circumstances, I am satisfied that sufficient grounds have been laid under Order 45 of the Civil Procedure Rules as read together with Rule 63 of the Probate and Administration Rules. It is therefore just and expedient to allow the application to ensure complete and proper administration of the estate. The application dated 27th November 2025 is allowed, and I make the following orders:
- a. The Certificate of Confirmation of Grant dated 14th December 2023 is hereby reviewed and amended to include the following additional assets of the deceased:
 - i. Investment in Balanced and Equity Funds held at Britam Asset Managers (Kenya) Limited, Account Number BA06016;
 - ii. Shares held in Uchumi Supermarkets PLC through CDSC account number 0XXXXXXXXXX37 held through Kingdom Securities Limited;



- b. The distribution of the said additional assets to Githaiga Asset Holdco Limited, in which each of the beneficiaries holds an equal shareholding and control as follows:
 - i. Anthony Githaiga Gichora – 30 shares (Director)
 - ii. Wangechi Githaiga – 30 shares (Director)
 - iii. Gichora Githaiga – 30 shares (Director)
- c. An Amended Certificate of Confirmation of Grant shall issue reflecting the inclusion and distribution of the above assets.
- d. Costs be in the cause.

Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 12TH DAY OF MARCH 2026

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E.K. OGOLA

JUDGE

In the presence of:

Ms Kendi..... for the Applicant

Gisiele Muthoni..... Court Assistant

