

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIVASHA**

**HIGH COURT SUCCESSION CAUSE NO. 26 OF**

**2014**

**IN THE MATTER OF THE ESTATE OF MARY NJERI**

**WANDEE (DECEASED)**

SARAH WANGARI NJERI.....  
..... APPLICANT

**RULING**

1. By an application dated 11<sup>th</sup> March 2024, brought under the provisions of section 74, 82 and 84 of the Law of Succession Act the applicant is seeking for orders; that the grant of letters of administration intestate issued to the said Sarah Wangari Njeri in this matter on the 2<sup>nd</sup> day of February, 2015 be rectified and/or amended to; add Mary Njeri Muriithi and Alex Mwangi Muriithi as co-administrators of the

deceased. That the costs of the application shall be provided for.

2. The application is supported by the affidavit of the applicant sworn on the even date where she avers that the deceased died on 23<sup>rd</sup> March 2000 and a grant of letters of administration was issued on 2<sup>nd</sup> February, 2015.
3. That, the deceased had a property known as Nakuru Council Plot No. 30 consisting on nine (9) rooms which were rented out at Kshs. 2,500 per room. However, when the certificate of confirmation of grant was issued on 3<sup>rd</sup> December 2015, the aforementioned property was ordered to be held in trust by Martha Mugure Muthemba for the children of Patrick Muriithi Njeri (Deceased) who include; Mary Njeri Muriithi, and Alex Mwangi Muriithi, the proposed co-administrators both of whom are step-children of Martha Mugure Muthemba.

4. That, the said Martha Mugure Muthemba has been collecting rent from the afore property without accounting to anybody to the detriment of the beneficiaries especially the proposed co-administrator who have attained the age of majority and are therefore capable of administering the estate until it is devolved as intended.
5. The applicant avers that she relocated to Canada and cannot therefore administer the estate without the inclusion of the co-administrators. Further the co-administrators have consented to the proposed administration. That in the circumstances of the case, it is necessary for the grant to be rectified as prayed to expedient administration and management of the assets of the deceased.
6. Having considered the application, it suffices to note that, rectification of a confirmed grant is governed by Section 74 of the Law of Succession Act (Cap 160) and Rule 43 of the Probate and

Administration Rules, allowing courts to amend clerical errors in names, descriptions, or time/place errors in grants, whether confirmed or not. It is initiated via Form 110 Summons for errors, while substantive changes require revocation.

7. Thus if the grant is inherently flawed (e.g., fraud, wrong beneficiaries, material omission), the proper action is revocation under Section 76 of the Law of Succession Act, not just rectification as properly held in; *In re Estate of Jonah Kiprotich arap Tuwei (Deceased) (Succession Cause 108 of 2019) [2025] KEHC 8164 (KLR) (12 June 2025) (Ruling).*
8. The applicant herein seeks to add other co-administrators and therefore the provisions of section 74 do not apply. The applicant should apply for revocation of the grant pursuant to the provisions of section 76 (d) and (e) which provide: -

*A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—*

*(d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either-*

*(i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or*

*(ii) to proceed diligently with the administration of the estate; or*

*(iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and*

*(g) of section 83 or has produced any such inventory or account which is false in any material particular; or*

*(e) that the grant has become useless and inoperative through subsequent circumstances.*

9. Pursuant to the aforesaid, the application is not allowed as prayed.

10. The application herein being similar to the application in High Court Succession Cause No. 27 of 2014, this order will apply in that matter.

11. It is so ordered.

Dated, delivered and signed on this 25<sup>th</sup> day of March 2026.

**GRACE L. NZIOKA**  
**JUDGE**

In the presence of:

Mr. Omondi for the applicant

Ms. Hannah: court assistant