

REPUBLIC OF KENYA



IN THE HIGH COURT OF KENYA AT NYANDARUA

PROBATE & ADMINISTRATION NO. 3 OF 2025

IN THE MATTER OF THE ESTATE OF:

SIMON NDURU KARIUKI..... DECEASED

BETWEEN

**DAVID GITAHU NDURU.....
PETITIONER/RESPONDENT**

AND

JOEL WAWERU KARIUKI PROTESTOR

AND

JANE WAIRIMU MATHENGE & 37 OTHERS..... PURCHASERS/APPLICANTS

RULING

1. Jane Wairimu Mathenge & 37 others, the applicants herein, moved the court through a Summons for rectification of the grant dated 2nd day of February 2026 under sections 47 & 71(1) of the Law of Succession Act and Rules 43 (1) & 73 of the Probate and Administration Rules. They are seeking rectification of the grant issued on 13th October 2022 to include the purchasers' identity cards. The following grounds supported the application:

- a) The grant was confirmed, and a certificate of confirmation of the grant was issued on 13th October, 2022, by the court.
- b) The 38 purchasers are beneficiaries of the estate as per the said certificate of confirmation of grant
- c) The names and identity card numbers of 38 purchasers have not been indicated in the certificate of confirmation of grant.
- d) That it is becoming difficult for the said purchasers to be registered as proprietors of their respective parcels.

2. The respondent opposed the application on the following grounds:

- a) The persons listed by the applicant in paragraph 4 and sought to be introduced in the certificate of confirmation of the Grant did not purchase any land from the deceased, Simon Nduru Kariuki.
 - b) No sale agreements have been produced to confirm that the persons are bona fide purchasers and that the purchase price was paid in full.
 - c) The aforesaid persons are not in possession of the land, and one wonders why they did not take possession when the deceased was alive, if they are purchasers.
 - d) The respondent was not involved at the time of filing the succession cause herein, which Succession Cause was filed at Nyeri Law Courts by one Joel Waweru Kariuki, who is not related to the deceased at all, and one Francis Wangondu.
 - e) In the petition, 18 people were listed as buyers by the petitioner in the P & A5 form dated 12th November 2006, and the names are different from the 38 names sought to be introduced by the applicant in paragraph 4.
 - f) The respondent had sought the 18 buyers to produce sale agreements. Still, the applicant introduced another 20 buyers whose names are being revealed for the first time in the summons dated 2nd February, 2026.
 - g) The respondent is opposed to the rectification sought by the applicant, who has no locus standi to seek rectification of the certificate of confirmation of grant.
 - h) The applicant is a stranger to the estate of the deceased, and the children of the deceased have not been served with the application dated 2nd February, 2026. They have not consented to the prayers in the application.
3. In Form P & A 5, filed on 12 November 2006, there were 18 beneficiaries listed as purchasers. The summons dated 2 February 2026 introduced an additional 20 purchasers. It has been contested that they did not buy the land from the deceased. It has not been explained why they were not originally included. This raises the issue of the claim's authenticity.
 4. The application lacks merit, and the same is dismissed with costs.

Delivered and signed at Nyandarua, this 14th day of April 2026

KIARIE WAWERU KIARIE

JUDGE