



REPUBLIC OF KENYA



**In re Estate of William Kiberen Serem (Deceased) (Succession Cause
9 of 2017) [2026] KEHC 4292 (KLR) (31 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 4292 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 9 OF 2017
RN NYAKUNDI, J
MARCH 31, 2026**

IN THE MATTER OF THE ESTATE OF WILLIAM KIBEREN SEREM - DECEASED

BETWEEN

**ERELKANA KIPKORIR SEREM 1ST PETITIONER
JOHN KIBET SEREM 2ND PETITIONER
HOSEA KIPKEMBOI SEREM 3RD PETITIONER**

AND

**GLADYS JEBUNGEI 1ST OBJECTOR
LENA JEROTICH SEREM 2ND OBJECTOR
EMMA JEPCHUMBA SEREM 3RD OBJECTOR
ROSE JEPLETING 4TH OBJECTOR
JANE JELAGAT SEREM 5TH OBJECTOR**

RULING

1. Before court are summons for rectification of grant dated 27th March 2026 in which the Petitioners are seeking for orders:
 - a. That the rectified grant of letters of administration intestate confirmed and issued on 12th July 2023 be and is hereby rectified.
 - b. The rectification be that Land Parcels Nandi/Kipkaren Salient/182 and Nandi/Kipkaren Salient/183 be interchanged as they appear on the Rectified Grant.
 - c. That Costs in this application be in the cause.



2. Which application is grounded upon the following grounds:
 - a. The grant herein was rectified and subsequently issued on the 12th of July 2023.
 - b. Thereafter, there were a number of interlocutory applications that culminated in this court rendering its ruling on the 25th of February 2026 to the effect that the estate should be transmitted to the beneficiaries as per the said grant within 45 days, failure to which the same shall be transmitted to the Public Trustee.
 - c. The administrators have partially transmitted the estate and some of the beneficiaries have already processed their Certificates of Title bar Six who have been affected because the Rectified Grant interchanged land parcels Nandi/Kipkaren Salient/182 and Nandi/Kipkaren Salient/183.
 - d. The beneficiaries of Land Parcel/Kipkaren Salient/182 ought to be on Nandi/Kipkaren Salient/183 and vice versa.
 - e. The Land Registrar, Nandi County has since written to parties and the Court indicating the anomalies in the grant that ought to be corrected before the title deed can be published.
 - f. The amendment do not in any way affect the acreages allocated to each beneficiaries.
 - g. The amendment of the said grant will help the administrators distribute and wind up the estate within the limited period granted by the court.
3. The application is supported by an affidavit sworn by Lena Jerotich Serem who deposed as follows:
 - a. The grant herein was rectified and subsequently issued on 12th of July 2023.
 - b. That thereafter, there were a number of interlocutory applications that culminated in this court rendering its ruling on the 25th of February 2026 to the effect that the estate should be transmitted to the beneficiaries as per the said grant within 45 days failure to which the same shall be transmitted to the Public Trustee.
 - c. That we have partially transmitted the estate and some of the beneficiaries have already processed their Certificates of Title bar six who have been affected because the rectified grant interchanged land parcels Nandi/Kipkaren Salient/182 and Nandi/Kipkaren Salient/183.
 - d. That I have been processed my title deed and I was issued with the same but my other siblings are yet to be issued with the same.
 - e. That the beneficiaries of Land Parcel Nandi/Kipkaren Salient 182 ought to be on Nandi/Kipkaren Salient/183 and vice versa.
 - f. That the Land Registrar, Nandi County has since written to parties and the court indicating the anomalies in the grant that ought to be corrected before the title deeds can be published.
 - g. That the amendments do not in any way affect the acreages allocated to each beneficiary.
 - h. That the amendment of the said grant will help the administrators distribute and wind up the estate within the limited period granted by the court.

Decision

4. Rectification of grant is provided for under Section 74 of the *Law of Succession Act* and Rule 43 of the Probate and Administration Rules. It is now settled that rectification of grant of letters of



administration focuses on correcting minor errors, like misdescription of property or beneficiaries. This is how the Courts have gone about interpreting the provisions of Section 74 of the Act: In re Estate of Late Sophia Michere Njogu [2025] KEHC 2293: Established that adding omitted assets usually requires a review (Order 44), though courts may treat rectification applications as reviews in the interest of justice. Similarly, in re Estate of the Late Moriongeni Kogo [2025] KEHC 13859: Allowed rectification for land acreage inaccuracies as a, "misdescription" per Section 74. In addition, in re Estate of John Ngacha Ng'ang'a [2023] KEHC 19462: Affirmed that adding new properties is a substantive amendment, not a rectification. Likewise, in re Estate of Geoffrey Kinuthia Nyamwinga (Deceased) [2013] eKLR: Confirmed that Section 74 does not allow altering the substance of the grant. Finally, in re Estate of Muniu Karugo (Deceased) [1997]: Held that rectification cannot be used to fundamentally alter the grant's nature.

5. The rectification of documents is a remedy that has been granted by courts of equity for many centuries. Although it may be obtained in association with other remedies such as specific performance, it is an independent head of relief, and its basis is the protection of an applicant so that he is not put at risk or prejudiced by the existence of a document reliance on which would, without rectification, be unconscionable. The essence of rectification is not to reformulate a certificate of confirmation of grant or any such instrument like affidavits sworn by administrators in support of the petition.
6. It is a well-known maxim that courts of equity they do not rectify contracts which applies mutatis mutandis to Probate Courts that rectification is not the remedy for substantive amendments the grant of letters of administration. It has been held over time that rectification may be obtained in three classes of cases.
7. First, rectification of a document, legal instrument or any such legal tools may be granted where all parties to a document are under a concurrent mistake, that is a common mistake at the time of execution or release by a Court of law as to its content, text and application. Secondly, rectification may be granted although one party is not under mistake as to the provisions to the facts contained in a document or in our case the grant of letters of administration he executed it in the knowledge that another party in reviewing it established that the same was done under mistake of fact or by topographical errors and in those circumstances rendering the entire document or grant of letters of administration unconscionable calling for a remedy of rectification.
8. The width of the remedy of rectification may be seen from various examples and is not limited to the specifics of Section 74 of the *Law of Succession Act*. Some of the key documents which may be a subject of rectification under our legal framework include contract agreements, conveyances, deeds poll, settlements, the last testamentary, instruments of appointment, policies of life insurance, bills of exchange and company registers.
9. The simplest cases in which an error or a mistake arises in the instruments dealing with succession disputes are found where there is misdescription of assets, or names of beneficiaries or in advertently omitted beneficiary who was in the original summons for confirmation or property or asset which had been originally identified for distribution but inadvertently did not make it to the final list of the decree on confirmation.
10. I have reviewed the available evidence in this matter the grounds set out in the certificate of urgency and the accompanying summons for rectification deals with land parcels Nandi/Kipkaren Salient/182 and Nandi/Kipkaren Salient/183 in which the Applicant is seeking they be interchanged. The basis of it being that the Administrators have partially transmitted the estate and some of the beneficiaries have already processed their certificates of title save for the six who have been affected because the rectified grant interchanged the land parcels as alluded to above. The purpose of rectification being that the



beneficiaries of land parcel Nandi/Kipkaren Salient/182 ought to be in Nandi/Kipkaren Salient 183 and vice versa.

11. For those reasons and having had a glance of the Survey Report dated 20th February 2024 and the summons for rectification I hereby allow the remedy of rectification and the Administrators to avail the rectified grant for endorsement by this Court within three (3) days from today's date. This ruling makes no orders as to costs.

DELIVERED VIA EMAIL AND CTS, DATED AND SIGNED THIS 31ST DAY OF MARCH, 2026

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R. NYAKUNDI

JUDGE

