



REPUBLIC OF KENYA



**In re Estate of Rucha Mutuerandu alias M'Arucha Mutwirandu (Deceased)  
(Succession Cause 652 of 2015) [2026] KEHC 5263 (KLR) (27 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5263 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT CHUKA  
SUCCESSION CAUSE 652 OF 2015**

**RL KORIR, J**

**APRIL 27, 2026**

**IN THE MATTER OF THE ESTATE OF RUCHA MUTUERANDU  
ALIAS M'ARUCHA MUTWIRANDU (DECEASED)**

**IN THE MATTER OF**

**MBAE M'RUCHA ..... PETITIONER**

**RULING**

1. Mbae Rucha M'Rucha was granted letters of administration on the estate of Rucha Mutuerandu alias M'arucha Mutwirandu on 24<sup>th</sup> May, 2016. The estate was subsequently distributed by Limo J. vide a Confirmed Grant dated 30<sup>th</sup> October 2017 as follows: -

**Land Parcel No. Muthambi/Chamunga/342**

- i. Maxwell Kimathi Nyaga 1.75 Acres
  - ii. Mbae M'Rucha 3.50 Acres
  - iii. Nicholas Gitonga Mbae 0.58 Acre
  - iv. Alex Kinyua Nyaga 1.75 Acres
  - v. Nicholas Gitonga Mbae 0.40 Acre
2. The Petitioner/Administrator filed the present summons dated 14<sup>th</sup> August 2025 seeking orders that;
    - i. That the Honourable court be pleased to amend and/or rectify the certificate of confirmation of grant dated 30<sup>th</sup> October 2017.
    - ii. That upon granting prayer 1 herein the honourable court be pleased to issue a rectified certificate of confirmation of grant reflecting the following;



- (a) That the shares of Alex Kinyua Nyaga be distributed to Millicent Kangai who is the wife of the late Alex Kinyua Nyaga.
- (iii) Costs of this Application be provided for.
3. The Summons are based on the grounds that one of the beneficiaries Alex Kinyua Nyaga (now deceased) passed away on 9<sup>th</sup> July 2024 before the grant was fully implemented. The family wished that his widow Millicent Kangai step into his position as beneficiary for purposes of the full implementation of the grant.
  4. In his sworn affidavit, the Petitioner stated that all beneficiaries of the estate were agreed that their deceased brother's share of their late father's estate devolve to his family through the widow. He annexed the death certificate of Alex Kinyua Nyaga (MM2) and the Chief's letter (MM3) introducing Millicent Kangai as the deceased's widow and confirming that the family was in agreement.
  5. At the hearing of the summons on 14<sup>th</sup> October 2025, the Petitioner urged the court to rectify the grant. He stated that his deceased brother was survived by the widow and three adult children Newton Mwenda Kinyua, Lewis Mutwiri Kinyua and Kelvin Mawira Kinya.
  6. I have considered the Application. While the Administrator seeks rectification of the confirmed grant, it is evident that the orders sought relate to the substitution of a deceased beneficiary with his widow, which does not fall within the ambit of rectification under Section 74 of the *Law of Succession Act* and Rule 43 of the *Probate and Administration Rules* which limits rectification to errors in names, descriptions to time or place of death or for purposes of a limited grant.
  7. Substitution of a party is a substantive matter and ought properly to have been pursued by way of an application for substitution, drawing from the provisions of Order 24 of the *Civil Procedure Rules* (as imported into succession proceedings by Rule 63 of the *Probate and Administration Rules*), or through appropriate proceedings for transmission of the deceased beneficiary's share to his estate.
  8. I observe however that the parties in the present Application were elderly, unrepresented, and lacked the relevant legal literacy as to provisions of law stated above. I also take note that the Application is not contested, with all beneficiaries being in agreement as to the proposed mode of distribution. In the interest of substantive justice, and guided by Article 159(2)(d) of the *Constitution* which enjoins the Court to administer justice without undue regard to procedural technicalities, I am inclined to treat the present Application as one seeking substitution for purposes of implementation of the confirmed grant.
  9. Accordingly, the Grant confirmed on 30th October 2017 is amended to the extent that the share measuring 1.75 acres in Land Parcel No. Muthambi/Chamunga/342 earlier allocated to the late Alex Kinyua Nyaga shall devolve to his widow Millicent Kangai, to hold in trust for herself and the children of the said deceased beneficiary.
  10. An amended Certificate of Confirmation of Grant shall issue in the above terms.
  11. The Administrator is further directed to file a final account of the distribution of the estate within 30 days of today.
  12. There is no order on costs.
- Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 27<sup>TH</sup> DAY OF APRIL, 2026.**

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**R. LAGAT-KORIR**

**JUDGE**

Ruling delivered in the absence of the Applicant; Muriuki (Court Assistant).

