

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MILIMANI
FAMILY DIVISION
PROBATE & ADMINISTRATION CAUSE NO. 451 OF 2013

IN THE MATTER OF THE ESTATE OF WILSON WAIRUTU MWANGI
ALIAS MWANGI NJUMBI ALIAS WILLIAM WAIRUTU WANJUMBI
(DECEASED)

RICHARD KURUMU WAIRUTU APPLICANT

VERSUS

SUSAN GATHONI NJAU1ST RESPONDENT
ALICE MUTHONI NJOKA2ND RESPONDENT
NAOMI WAITHIRA KURIA3RD RESPONDENT

RULING

1. The Court is seized of two diametrically opposed applications that seek to determine the trajectory of the administration of the estate of the Deceased. The probate proceedings in this matter have been fraught with acrimony, procedural missteps, and profound allegations of fraud and concealment. It is a fundamental pillar of probate jurisprudence that the Court acts as the ultimate custodian of a Deceased’s estate, ensuring that the devolution of property occurs strictly within the confines of the law, the authentic wishes of the deceased (where testate), and the rightful entitlements of the beneficiaries.

2. The Deceased passed away intestate on 20 August 1971. He was a patriarch of a large, polygamous family, survived by three wives and an extensive lineage of 20 children. He was a man of substantial means, leaving behind an estate comprising prime real estate in both Murang'a and Nairobi Counties.
3. The genesis of the current judicial proceedings traces back to 16 December 2013, when a Grant of Letters of Administration Intestate was issued to 4 of the Deceased's daughters: Virginia Wanjiku Waweru, Susan Gathoni Njau, Alice Muthoni Njoka, and Naomi Waithira Kuria. This Grant was subsequently confirmed by the Court on 15 May 2017, and a Certificate of Confirmation of Grant was issued. The Certificate was later rectified on 7 February 2018 to reflect a schedule of distribution that purportedly encompassed 20 beneficiaries.
4. However, the tranquillity of the confirmed Grant was shattered when the Administrators allegedly attempted to enforce the subdivision and sale of the properties in early 2025. This triggered the present litigation, requiring the Court to interrogate the very foundation upon which the Grant of Letters of Administration was obtained, confirmed, and subsequently rectified.
5. The legal contestation before the Court is framed by two primary Applications. The first seeks to entirely vitiate the Grant, uprooting the entire probate process, while the second seeks to preserve the Grant through localized amendments, substitutions, and rectifications.

Summons for Revocation of Grant dated 13 May 2025

6. The Objector is a son of the Deceased, asserting his status as the firstborn surviving son. The application is brought pursuant to Sections 45, 49, and 76 (a), (b), and (c) of the Law of Succession Act, alongside Rule 44 (1) and (2) of the Probate and Administration Rules.

7. The Objector, supported by the Affidavits of Genoffeva Waithira Mwangi Njumbi and Richard Kirumu Mwangi, seeks the following substantive orders from this Court:
- (i) That the Amended Grant of Letters of Administration issued on 15 May 2017 and rectified on 7 February 2018 to the Administrators be wholly revoked and annulled.
 - (ii) That the Certificate of Confirmation of Grant be correspondingly cancelled and set aside.
 - (iii) That pending the hearing and determination of the application, an order of inhibition be registered against all the estate properties to restrain any dealings, subdivisions, or sales.
 - (iv) That a stranger unlawfully introduced as a beneficiary be removed from the estate.
 - (v) That the Court issues directions for the filing of a fresh petition involving all rightful beneficiaries in accordance with the applicable law.

The Administrators' Summons for Review and Rectification

8. In what appears to be a direct procedural counter-manoeuvre to the Objector's Summons for Revocation, the Administrators filed a Summons for Review and Rectification dated June 2025. The Administrators urge the Court to preserve the existing Grant and Certificate of Confirmation, subject to the following proposed rectifications:
- (i) The substitution of Virginia Wanjiku Waweru (a Co-Administrator who passed away on 29 January 2021) with Ann Wanjiru Willie.
 - (ii) The removal of Damaris Wangari Willie (a widow of the Deceased who passed away without children on 6 March 2025) from the distribution

schedule, and the subsequent equal distribution of her designated share among the remaining nineteen beneficiaries.

- (iii) The rectification of various alleged typographical and descriptive errors regarding the names of several beneficiaries. Specifically, the Administrators seek to substitute individuals who were purportedly holding shares in trust for their siblings (e.g., Wilson Kuria and Kariuki Njeri) with other siblings (Willie Kuria Nduta and Patrick Irungu, respectively).

The Objector's Case

9. The Objector's case is multi-faceted, striking at both the procedural integrity of the probate cause and the substantive legal principles applied to the distribution of the estate.
10. First, the Objector contends that the Grant of Letters of Administration was obtained through a calculated, fraudulent concealment of material facts. He deposes that the Administrators—who are married daughters residing away from the ancestral home—secretly petitioned the Court without the knowledge, involvement, or consent of the male siblings and other beneficiaries who have been in continuous, uninterrupted occupation of the Murang'a agricultural land since the 1970s. The Objector asserts that he and his family members were entirely unaware of the probate proceedings until April 2025, when strangers, allegedly acting on behalf of the Administrators, invaded the ancestral land to enforce a subdivision and lay claim to tea bushes cultivated by the sons. He categorically states that the signatures appearing on the consents to the petition and the application for confirmation of the Grant were brazenly forged, thereby rendering the entire proceedings defective in substance under section 76 of the Law of Succession Act.

11. Second, the Objector raises a fundamental question of law regarding the applicable succession regime. He emphasizes that the Deceased died in August 1971, exactly a decade before the Law of Succession Act came into general operation on 1 July 1981. Relying on Section 2(2) of the Act, he argues that the estate must be exclusively governed by Kikuyu customary law as it existed in 1971. Under his strict interpretation of this customary law, the estate should be divided according to the number of houses (wives) that bore children. Crucially, he asserts that under Kikuyu custom, married daughters are entirely excluded from inheriting the estate of their father, as they are deemed to have joined their husbands' lineages upon the payment of dowry. Furthermore, he asserts that under custom, the eldest sons are the rightful persons clothed with the authority to initiate succession and administer the land, not the married daughters. He also claims that the Deceased had largely distributed his ancestral land *inter vivos* to his sons, a fact he claims the Administrators concealed from the Court.
12. Third, the Objector alleges a biological impossibility that, in his view, amounts to incontrovertible proof of fraud. He points out that the confirmed distribution schedule includes a beneficiary named John Gichimu Willie *alias* John Gichuru. The Objector alleges that this individual was born in the year 1974. Given that the Deceased died in 1971, the Objector submits that it defies the laws of human biology for this individual to be a son of the Deceased. The inclusion of this individual, he argues, constitutes the fraudulent introduction of a stranger into the estate to dilute the shares of the rightful heirs.
13. Finally, the Objector highlights a defect in the proposed distribution of the Nairobi properties, specifically L.R. Dagoretti/Riruta/914. He has annexed a Letter of Allotment demonstrating that this property was jointly owned by the Deceased and a third party, one Joseph Ng'ang'a. He argues that the Administrators' proposal to sell this property and distribute the entire

proceeds to the Deceased's estate, without severing the joint tenancy or involving the co-owner, is legally untenable and practically impossible.

The Administrators' Case

14. The Administrators fiercely oppose the Revocation application, characterizing it as a malicious, legally unfounded attempt by a pathological liar to entrench his unlawful monopoly over the estate's assets. They rely heavily on Replying Affidavit sworn by Susan Gathoni Njau and their written submissions dated 26 January 2026.
15. Notably, on 17 June 2025, Counsel for the Respondents informed the Court that a Replying Affidavit had been filed. Directions were issued that the same should be served upon the Applicant. However, on perusal of the Court file and the Court Tracking System (CTS), it would appear that what the Respondents filed was Summons for Review, Rectification and Confirmation of Grant, and not a Replying Affidavit.
16. The Administrators submit that the Objector's application is a blatant afterthought, brought in bad faith. They contend that following the Deceased's demise, the family engaged in internal consultations, culminating in a formal family meeting convened before the Chief of Githumu Location. They assert that the Objector was present at this meeting, where it was unanimously agreed to institute the succession cause and share the estate equally among all the children of the Deceased, without discrimination. They argue that the Chief's letter, which forms part of the Court record, accurately captured all the beneficiaries and formed the legitimate basis of their petition. They posit that the Objector's true motivation for seeking revocation is to preserve his exclusive, unlawful collection of rent from the Deceased's commercial properties in Nairobi.

17. Addressing the weighty legal arguments regarding customary law, the Administrators reject the Objector's reliance on patriarchal Kikuyu customs. They cite the High Court decision in ***Daniel Mwongera M'Iringo v Lucy Karambu M'Ikiao (2017) eKLR***, arguing that Section 38 of the Act mandates the equal distribution of a deceased's estate among all children, regardless of gender or marital status. Furthermore, they rely heavily on the landmark, progressive pronouncement by Makhandia J. (as he then was) in ***Re Estate of Solomon Ngatia Kariuki (Deceased) (2008) eKLR***. In that case, the Court deprecated archaic customary laws that seek to disinherit married daughters, finding such customs primitive, biased against women, and wholly repugnant to justice and modern statutory frameworks. They argue that the Objector's attempt to disinherit his sisters is unconstitutional and obsolete.
18. Regarding the highly contentious inclusion of John Gichimu Willie, the Administrators maintain a brief defence. They assert that he is a legitimate child of the Deceased, pointing out that his name is articulated in the Chief's letter as Beneficiary Number 8. They dismiss the Objector's allegations regarding his 1974 date of birth and alleged alternative identity card numbers as misleading and unsubstantiated.
19. Finally, they submit that any descriptive errors in the Grant or the Certificate of Confirmation are minor, inadvertent, and perfectly curable via their concurrent application for Rectification under Section 74 of the Act. They maintain that the revocation of a Grant is a drastic remedy that should not be deployed where rectification suffices to cure the defects.

Analysis & Determination

20. The Court distils this dispute into three core legal issues for determination:

- (i) Whether a Grant of Letters of Administration be rectified under Section 74 of the Law of Succession Act to substitute a deceased administrator and redistribute the shares of a deceased beneficiary, or is revocation under Section 76 the mandatory procedural route?
- (ii) What is the substantive legal regime governing the estate of a person who died in 1971, and to what extent can a probate court enforce discriminatory customary practices that disinherit married daughters in light of Kenya's modern constitutional framework?
- (iii) Whether the Objector established, to the required legal standard, sufficient grounds under Section 76 of the Act—specifically regarding forged consents, concealed beneficiaries, and the introduction of a biologically impossible heir—to warrant the complete revocation of the confirmed Grant?

The Jurisdictional and Procedural Scope of Rectification vs Revocation

21. Before delving into the substantive merits of the revocation application, the Court must first dispense with the Administrators' Summons for Review and Rectification. The Administrators seek to cure the defects in their Grant—specifically the death of their co-administrator, Virginia Wanjiku Waweru, and the death of the widow, Damaris Wangari Willie—by applying for rectification under Section 74 of the Law of Succession Act.
22. The statutory framework governing the alteration of Grants provides distinct, mutually exclusive avenues depending on the severity and nature of the defect. To comprehend the fatal limitations of the Administrators' application, a comparative jurisprudential analysis of the relevant provisions is highly instructive.

23. The Administrators rely on Section 74 to substitute an administrator who has passed away and to redistribute the share of a deceased widow among the remaining beneficiaries. This reliance betrays a fundamental, fatal misunderstanding of succession law.
24. A Grant of Letters of Administration is an order issued strictly *in personam*. It is a fiduciary mantle placed upon a specific individual based on the Court's assessment of their personal capacity, their relationship to the deceased, and their suitability to manage the estate diligently and honestly. Because the Grant is intrinsically tied to the person of the administrator, it is not a transferable asset. It cannot be inherited, assigned, or casually substituted via a clerical rectification when the holder dies.
25. When an administrator dies, their legal authority to intermeddle with the estate ceases instantaneously. Consequently, the Grant itself becomes, in the parlance of probate law, useless and inoperative with respect to that specific administrator. This scenario does not trigger the minor corrective powers of Section 74; rather, it squarely triggers the substantive revocation provisions of Section 76(e) of the Act.
26. The Court of Appeal authoritatively settled this exact procedural dilemma in the binding precedent of ***Florence Okutu Nandwa & Another v John Atemba Kojwa (2014) eKLR***. The Court held unequivocally that there can be no substitution of an administrator by way of an application for substitution or rectification. The proper, mandatory legal procedure when an administrator dies before fully administering the estate is to apply for the revocation of the existing Grant under Section 76(e) on the ground that it has become useless and inoperative, and to simultaneously pray for the issuance of a fresh Grant *de bonis non administratis* to the new administrators.

27. This position has been consistently applied by the High Court. In ***In re Estate of Kotut Kipkoech Kibos*** and ***In re Estate of Mwangi Mugwe (2003) eKLR***, the Court reiterated that rectification under Section 74 and Rule 43 of the Probate and Administration Rules is strictly limited to correcting minor, clerical, or accidental errors. It cannot be utilized as a procedural backdoor to effect substantive changes, such as replacing a deceased administrator or redistributing shares belonging to a deceased beneficiary.
28. The Administrators' Summons for Rectification attempts to use a procedural shortcut to achieve a substantive legal overhaul of the estate's representation and its distribution schedule. By seeking to substitute Virginia Wanjiku Waweru with Ann Wanjiru Willie, and to redistribute Damaris Wangari Willie's share through Section 74, the application actively circumvents the mandatory safeguards and judicial scrutiny embedded within Section 76. Such an application is incompetent.
29. The Court finds that the Summons for Review and Rectification dated June 2025 is incurably defective in law. The proper procedure would have been to concede to the revocation of the Grant under Section 76(e) due to the death of the co-administrator, and to apply afresh. Consequently, the Administrators' Summons for Rectification is bereft of legal merit and must be dismissed.

The Interplay of Pre-1981 Succession, Customary Law, and Constitutional Equality

30. I now turn to the substantive law governing the estate. The threshold determination is identifying the legal regime applicable to the Deceased. The exact date of death is the critical anchor point. The Objector initially averred in his pleadings that the Deceased died in 1970. However, the Administrators annexed a certified Certificate of Death indicating that the Deceased passed

away on 20 August 1971. The Court accepts the uncontroverted documentary evidence of the Death Certificate; it is a finding of fact that the Deceased died on 20 August 1971.

31. The Law of Succession Act was enacted in 1972 following the comprehensive recommendations of the 1968 Commission on the Law of Succession, whose mandate was to unify the disparate customary, religious, and statutory succession laws into a comprehensive code. However, the Act did not come into operation until 1 July 1981.
32. To manage the complex transition and avoid the retrospective disruption of vested property rights, the legislature incorporated Section 2(2) into the Act, which explicitly provides:

The estates of persons dying before the commencement of this Act are subject to the written laws and customs applying at the date of death, but nevertheless the administration of their estates shall commence or proceed so far as possible in accordance with this Act.

33. The jurisprudential interpretation of Section 2(2) establishes a bifurcated framework. First, the substantive rights of inheritance—the determination of who is a legitimate heir and the quantum of their share—are governed strictly by the laws and customs that applied to the deceased at the exact date of their death. Second, the procedural aspects of administration—how the estate is managed, how Grants are petitioned for, and the mechanisms of Court oversight—are governed by the Act and the accompanying Probate and Administration Rules.
34. Because the Deceased died in 1971, a full decade before the Act commenced, the substantive distribution of his estate cannot be

automatically subjected to the rigid fractional formulas and statutory dependencies outlined in Part V of the Act (specifically Sections 35 to 40). The Administrators' reliance on Section 38 of the Act to justify a blanket equal distribution across all twenty children is, as a strict matter of statutory interpretation, legally misplaced for an intestacy occurring prior to 1981. The substantive rights of the beneficiaries fall to be determined, in the first instance, by Kikuyu customary law, which was the personal law of the Deceased at his date of death.

The Clash Between Patriarchal Custom and Constitutional Equality

35. The Objector enthusiastically embraces Section 2(2). He asserts that under the strict tenets of Kikuyu customary law of the 1970s, the estate must be distributed exclusively to the male lineage of the sons. He contends that his sisters—the married daughters of the Deceased—are entirely excluded from inheritance, as customary law dictates that they have joined their husbands' lineages. Furthermore, he asserts that under custom, the eldest sons possess an exclusive, unassailable right to administer the ancestral land, completely disenfranchising female siblings from any administrative role.
36. The Court is, therefore, faced with a profound constitutional dilemma: Can a modern Court lend its coercive judicial machinery to enforce a customary law that outrightly disinherits female children solely on the basis of their gender and marital status, simply because the deceased died prior to 1981?
37. Historically, Section 82(4) of the repealed Constitution shielded personal laws—including laws relating to adoption, marriage, divorce, and the devolution of property on death—from the strictures of the anti-discrimination clauses. This constitutional loophole permitted the continued enforcement of patriarchal customary laws that marginalized women in matters of inheritance.

38. However, the promulgation of the Constitution, 2010, fundamentally and irreversibly altered the jurisprudential landscape. Article 27 of the Constitution guarantees equality and freedom from discrimination. It explicitly and forcefully prohibits the State or any person from discriminating directly or indirectly against any person on any ground, including sex, pregnancy, or marital status. Furthermore, Article 2(4) is the ultimate supremacy clause; it declares that any law, including customary law, that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid.
39. The question of whether the equality provisions of the Constitution can be applied to negate discriminatory customs in estates of persons who died before 1981 has been conclusively settled by the superior courts. The march toward equality began even before the 2010 Constitution. In the watershed decision of the Court of Appeal in ***Mary Rono v Jane Rono & Another (2005) eKLR***, the Court relied heavily on international human rights instruments ratified by Kenya, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Court held that customary laws that disinherit daughters are repugnant to justice and morality and have no place in a modern society, directing that sons and daughters must inherit equally regardless of the dictates of custom.
40. Post-2010, the jurisprudence has been unequivocal in striking down pre-1981 discriminatory customs. In ***In re Estate of Lerionka Ole Ntutu (Deceased)***, the Court dealt with a factual matrix nearly identical to the present case: a pre-1981 death where sons sought to rely on Section 2(2) to exclude their married sisters under Maasai customary law. The Court held that a claim seeking to deprive individuals of their inheritance rights solely on the basis of sex and marital status is illegitimate, repugnant to justice, and blatantly unconstitutional. The Court ruled that customary law must yield to the supreme dictates of equality.

41. Similarly, in ***Re Estate of Solomon Ngatia Kariuki (Deceased) (2008)*** eKLR, Makhandia J. (as he then was) forcefully struck down the invocation of Kikuyu Customary Law designed to bar married daughters from inheriting. The Court labelled such customary demands as archaic, primitive, and heavily biased against women, emphasizing that all children of a deceased person are entitled to stake a claim to the estate. ***Daniel Mwongera M'Iringo v Lucy Karambu M'Ikiao [2017]*** eKLR reinforced this, noting that the law does not classify children into male or female, nor does it disqualify a child based on marital status.
42. The legal position is, therefore, crystal clear. While Section 2(2) of the Act imports customary law to govern the distribution of pre-1981 estates, that customary law is not a static, untouchable monolith. It is entirely subject to the supremacy of the Constitution. A probate Court is constitutionally barred from enforcing any tenet of customary law that discriminates against women.
43. The Objector's vehement assertion that his sisters—the married daughters of the Deceased—have no right to inherit the Murang'a ancestral land, or that they are culturally barred from administering the estate, is obsolete, discriminatory, unconstitutional, and entirely rejected by this Court. Such arguments belong to a bygone era and will find no sanctuary in this courtroom. The Court finds and declares that all the children of the Deceased, regardless of their gender or whether they are married or unmarried, are legitimate beneficiaries entitled to an equitable share of their father's estate.
44. However, while the Objector fails on his customary law arguments, his application for revocation raises profound procedural and evidentiary issues that require independent scrutiny.

The Evidentiary Threshold for Revocation

45. The Court now turns to the gravamen of the Objector's case: the plea to revoke the Grant under Section 76 of the Law of Succession Act.
46. Section 76 outlines the specific, exhaustive grounds upon which a Court may exercise its discretionary power to revoke or annul a Grant of representation, whether confirmed or not. A Grant may be revoked if the court decides, either on application by any interested party or of its own motion, that: *(a) the proceedings to obtain the grant were defective in substance; (b) the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case; (c) the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently; (d) the person to whom the grant was made has failed to proceed diligently with administration or produce accounts; or (e) the grant has become useless and inoperative..*
47. The burden of proof rests squarely on the Objector to demonstrate, through clear and compelling evidence, that the Administrators' conduct meets the high threshold for revocation. Mere dissatisfaction with the proposed distribution is insufficient; the Objector must prove fraud, material concealment, or fundamental procedural defects.
- (i) The Grant has become Useless and Inoperative**
48. One of the four joint Administrators, Virginia Wanjiku Waweru, died on 29 January 2021. While the survival of three other co-administrators might ordinarily allow the administration to continue (subject to the minimum numbers required for continuing trusts under Section 58 of the Act), the specific configuration of this Grant and the subsequent attempts by the surviving Administrators to substitute the deceased Administrator via rectification have severely compromised the integrity of the representation.

The death of an administrator is a textbook trigger for the revocation of the Grant's operability under Section 76(e) of the Act, as the mandate granted *in personam* is fractured. On this ground alone, the gGrant is liable to be revoked to allow for the orderly appointment of new, capable administrators through a fresh petition.

(ii) Concealment of Material Facts and Lack of Beneficiary Consent

49. The Objector asserts that he, along with several other beneficiaries residing on the Murang'a ancestral land (L.R. Loc. 3/Gituru/13), was kept entirely in the dark regarding the succession proceedings. He has sworn an Affidavit claiming that the signatures appearing on the consents to the Petition and the application for confirmation were forged, and that he never attended any Court proceedings. This position is corroborated by the Affidavits of Genoffeva Waithira Mwangi Njumbi and Richard Kirumu Mwangi, who depose that their families only became aware of the Grant in April 2025 when strangers, allegedly acting as agents of the Administrators, invaded the land accompanied by the local Chief to enforce a subdivision and claim the tea bushes the sons had cultivated for decades.
50. The Administrators counter that the Objector was involved in a family meeting before the Chief and that the Chief's letter accurately captured all beneficiaries, proving that there was no concealment.
51. This defence is legally porous. While a Chief's letter is a useful administrative tool frequently utilized to identify the surviving dependants of a deceased person, it is absolutely not a statutory substitute for the mandatory legal consents required under the Probate and Administration Rules. The Court in ***In re Estate of Mukhobi Namonya (Deceased) (2020) eKLR*** noted that a Chief's letter has no statutory backing under the Act and does not cure substantive legal defects regarding consent.

52. Rule 40 stringently mandates that a Grant cannot be confirmed unless all dependants and beneficiaries have expressly consented to the proposed distribution in writing, or, in the absence of such consent, have been properly cited, served with notice, and given an opportunity to be heard by the Court. The failure to obtain the authentic, verifiable consent of all beneficiaries, or to issue proper citations, is a fatal procedural defect.
53. The Court has consistently established that distributing an estate without the knowledge and genuine consent of all beneficiaries amounts to a gross concealment of material facts. In the highly persuasive case of ***In the matter of the estate of Gitau Chege Kibera (deceased)*** (Succession Cause 1463 of 1991), Aluoch J. explicitly revoked a confirmed Grant upon discovering that the administrators had failed to obtain the consent of all beneficiaries, including the objector (who was the eldest son of the first wife, remarkably similar to the present facts), regarding the mode of distribution. The Court held that such an omission was fatal to the administration process and rendered the proceedings defective in substance, necessitating revocation. Similarly, in ***In the matter of the estate of Peter Mwangi Njoroge (deceased)*** (Succession Cause 1817 of 2005), Achode J. (as she then was) revoked a Grant where the administrator had filed the cause secretly and concealed material facts from the Court and other beneficiaries. Furthermore, in ***In the matter of the estate of Julius Ndubi Javan (deceased)*** (Succession Cause 720 of 2013), Gikonyo J. revoked a Grant due to the fraudulent concealment of material facts from the court during confirmation, emphasizing that the primary duty of the probate court is to distribute the estate to the rightful beneficiaries based on full disclosure.
54. In the present case, the Objector's vehement denial of having signed any consent forms, coupled with the sudden, hostile emergence of the Administrators on the ancestral land in 2025—twelve years after the initial Grant was issued—raises grave, unassailable suspicions regarding the

authenticity of the proceedings. The Administrators have not produced any compelling forensic evidence, nor have they produced independent witness testimony, to rebut the serious allegations of forgery. When a primary beneficiary alleges that they were entirely excluded from succession proceedings and their signatures forged, and the administrators fail to convincingly prove otherwise, the Court must err on the side of caution to protect the integrity of the estate. The proceedings leading to the confirmation of the Grant were, therefore, defective in substance under Section 76(a) and obtained by concealment under Section 76(b).

(iii) The Fraudulent Introduction of a Biologically Impossible Heir

55. Perhaps the most glaring, indefensible anomaly in the confirmed Grant is the inclusion of one "John Gichimu Willie" (alias John Gichuru) as a beneficiary. The Certificate of Confirmation of Grant explicitly lists him as beneficiary number 17, entitled to an equal share of the estate alongside the Deceased's actual children.
56. The Objector has made a sweeping allegation that this individual was born in 1974 and not 1970. However, no evidence has been presented to this Court to prove the allegation.
57. The Administrators, in their Replying Affidavit, concede the existence of this individual and vigorously defend his inclusion as a beneficiary. Their sole defense is that his name appears in the Chief's letter as Beneficiary Number 8. Crucially, however, the Administrators do not dispute, nor do they provide any documentary evidence (such as a birth certificate or baptismal card) to controvert the Objector's specific assertion that this individual was born in 1974.
58. The Court is confronted with an unproved allegation and nonchalant response thereto. I have no choice but to dismiss the claim.

59. In conclusion, the Administrators' proposal to unilaterally sell L.R. Dagoretti/Riruta/914, which evidence suggests is jointly owned with a third party not involved in these proceedings, demonstrates a reckless approach to the administration of the estate that could embroil the estate in further third-party litigation.
60. The Court must intervene to halt this deeply flawed, tainted process. Allowing the current Administrators to proceed with the subdivision, transfer, and sale of the estate properties based on a fraudulently obtained Certificate of Confirmation would occasion a gross miscarriage of justice to the lawful beneficiaries who have been in peaceful occupation of the ancestral land since the 1970s.
61. It is the solemn duty of the probate court to ensure that the pure streams of justice remain unpolluted by fraud, concealment, or procedural manipulation. The Objector has successfully discharged his burden of proof to the required standard. The Summons for Revocation merits complete allowance.
62. In light of the foregoing, the Court finds that the Summons for Revocation dated 13 May 2025 is fully merited, while the Summons for Review and Rectification dated June 2025 is incompetent and bad in law.
63. Consequently, the Court issues the following precise Orders:
- (i) The Summons for Review and Rectification filed on 16 June 2025 is hereby dismissed in its entirety.
 - (ii) The Grant of Letters of Administration Intestate issued to Virginia Wanjiku Waweru, Susan Gathoni Njau, Alice Muthoni Njoka, and Naomi Waithira Kuria on 16 December 2013, confirmed on 15 May 2017, and rectified on 7 February 2018, is hereby revoked and

annulled pursuant to Sections 76(a), (b), (c), and (e) of the Law of Succession Act.

- (iii) The Certificate of Confirmation of Grant dated 15 May 2017 and subsequently rectified on 7 February 2018 is hereby cancelled. Any subdivisions, transfers, or sales of the estate properties initiated pursuant to the revoked Certificate are hereby declared null and void. The estate is formally returned to *status quo ante*.
- (iv) Pending the issuance and confirmation of a fresh grant of representation, an order of inhibition is hereby issued and shall be immediately registered against L.R. Loc. 3/Gituru/13, L.R. Dagoretti/Riruta/T.90, and L.R. Dagoretti/Riruta/914, restraining any dealings, subdivisions, transfers, or sales whatsoever.
- (v) The lawful beneficiaries of the estate are directed to convene a family meeting within sixty (60) days of this Ruling to agree on the appointment of new Administrators. Thereafter, a fresh Petition for Letters of Administration *de bonis non administratis* shall be filed.
- (vi) Mention before this Court on 6 October 2026 for appointment of new Administrators.
- (vii) Each party shall bear their own costs for these applications.

DATED AND DELIVERED AT NAIROBI THIS 14 DAY OF MAY 2026

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Court Assistant: Lucy Mwangi

Ruling