



REPUBLIC OF KENYA



**(Environment and Land Miscellaneous Application E133 of 2024)  
[2024] KEELC 6881 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 6881 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E133 OF 2024**

**MD MWANGI, J**

**OCTOBER 17, 2024**

**(IN THE MATTER OF THE PARCEL OF LAND KNOWN AS L.R. NO.**

**14225/5**

**&**

**IN THE MATTER OF THE PARCEL OF LAND KNOWN AS L.R. NO.**

**14225/65)**

*(In respect to the Notice of Motion dated 19th July 2024 brought under the provisions of Sections 80 (1) of the Land Registration Act and Rule 94 of the Land Registration Rules.)*

**RULING**

1. The application for determination is the Notice of Motion dated 19th July 2024 brought under the provisions of Section 80 (1) of the [Land Registration Act](#) and Rule 94 of the [Land Registration Rules](#). The Applicant, Lydia Wangari Ndung'u, is the Administrator of the Estate of the late Ndung'u Gachuwa, vide letters of administration issued and confirmed in Nairobi High Court, Succession Cause 748 of 2001 (In the matter of the Estate of Ndungu Gachuwa).
2. The Applicant prays for orders that the Honourable Court be pleased to order that the register entries with respect to parcels of land known as L.R. 14225/5 and L.R. 14225/65 be amended to reflect the entries in the 'Further Rectified Grant' as issued by the High Court of Kenya at Nairobi on 18th March 2024 in the High Court Succession Cause 748 of 2001.
3. The application is supported by the affidavit of the Applicant, deposed on 19th July 2024 before a Commissioner of Oaths, D.N.A. Oginda.
4. The deponent explains that the Estate of the late Ndungu Gachuwa, was distributed by the High Court, in the Succession Cause 748 of 2001 and the process of transfer by transmission undertaken as per the provisions of the [Law of Succession Act](#) and the various relevant land laws. This was done using the first grant that had been confirmed on 27th May 2009.



5. The first confirmed grant of Letters of Administration has since been rectified, albeit twice. The first rectification was on 29th May 2023. A further and final rectification was done on 18th March 2024.
6. The Applicant therefore seeks for an order of this court directing the Registrar of Lands to effect the amendments in respect to the two of the parcels of land, part of the Estate of the deceased, in terms of the further Rectified Grant of 18th March 2024.
7. The Applicant asserts that the dependents of the Estate as named in the High Court Succession Cause have all consented to this application. The consent is attached to the supporting affidavit and marked 'LWN4'.

#### **Issue for Determination.**

8. From the foregoing, the sole issue for determination is whether the application herein is merited.

#### **Determination**

9. I have keenly perused the annexures to the affidavit in support of the application herein and note as follows;
  - i. A Certificate of Confirmation of Grant in the Estate of Ndungu Gachuwa, (deceased) was first issued on 27th May 2009 in Nairobi High Court Succession Cause 748 of 2001. It was confirmed to the Applicant herein, Lydia Wangari Ndungu, as per the Schedule thereto. The two parcels of land L.R 14225/5 and L.R 14225/65, were to be registered in the name of the Applicant to hold in trust for Charles Elijah Nganga, Samuel Wanaina Ndungu, Mary Wangui, Sarah Njeri, Naomi Wangui, Teresia Wanjiku, and Philip Mwaura, in equal shares.
  - ii. The Certificate of Confirmation of Grant was rectified on 29th May 2023. In the Schedule thereto, a third property, Ting'ang'a/Anmer Block 8/1705, was added and distributed to Samuel Wainaina Ndungu, absolutely. The Applicant was then to hold L.R 14225/5 and LR 14225/65 in trust for Charles Elijah Nganga, Samuel Wanaina Ndungu, Mary Wangui, Serah Njeri, Naomi Wangui, Teresia Wanjiku and Philip Mwaura, in equal shares.
  - iii. A further rectification, which the Applicant now seeks to effect was done on 18th March 2024. The further rectification amended the distribution schedule as follows;
    - a. Lydia Wangari Ndungu is to hold in trust for herself and in equal shares for Charles Elijah Ng'ang'a, Samuel Wainaina Ndungu, Naomi Wambui and Philip Mwaura, L.R No.14225/65, only.
    - b. Samwel Wainaina Ndungu is to be registered as the absolute owner of L.R No. 14225/5 and Ting'ang'a/Anmer Block 8/1705.
10. Section 61 of the [Land Registration Act](#) provides for transmission of land on the death of the proprietor(s). Under Section 61(2) of the [Land Registration Act](#), upon confirmation of a grant and on production of the grant, the Registrar is authorized, without requiring the Personal Representative to be registered first, register by transmission, any transfer by personal representative and any surrender of a notice of discharge of a charge by the personal representative.
11. According to the Applicant, the transfer by transmission of L.R 14225/5 and L.R 14225/65 was already effected in accordance with the grant issued on 27th May 2009. However, the further rectification of 18th March 2024 amended the distribution schedule as noted at paragraph 9(iii), above. This certainly necessitates the rectification of the register in respect to the parcels of land, L.R 14225/5



and L.R 14225/65. The 3<sup>rd</sup> parcel of land, Ting'ang'a/Anmer Block 8/1705 too should be registered in accordance with the further rectified grant.

12. Consequently, I order the Land Registrar to amend and rectify the register for parcels L.R 14225/5 and L.R 14225/65 in accordance with the Further Rectified Certificate of Confirmation of grant, further rectified under the hand of P. Nyaundi, Judge of the High Court of Kenya, on 18th March 2024 in Nairobi High Court, Succession Cause No. 748 of 2001 (in the matter of the estate of Ndung'u Gachuwa- deceased). There shall be no orders as to costs.

13. It is so ordered.

**RULING DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17<sup>TH</sup> DAY OF OCTOBER, 2024.**

**M.D. MWANGI**

**JUDGE**

In the virtual presence of:

Mr. Gachengo Gitau for the Applicant

Court Assistant: Yvette

M.D. MWANGI

JUDGE

