



REPUBLIC OF KENYA



**In re Estate of the Late Kipkemoi Chepkwony Meto alias Kipkemoi Arap Meto (Deceased)  
(Succession Cause 165 of 2014) [2025] KEHC 7503 (KLR) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7503 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
SUCCESSION CAUSE 165 OF 2014**

**JK SERGON, J**

**MAY 29, 2025**

**IN THE MATTER OF THE ESTATE OF THE LATE KIPKEMOI  
CHEPKWONY METO ALIAS KIPKEMOI ARAP METO (DECEASED)**

**BETWEEN**

**JOSEPH KIPRONO CHEPKWONY ..... 1<sup>ST</sup> PETITIONER**

**JOHN KIPNGENO CHEPKWONY ..... 2<sup>ND</sup> PETITIONER**

**AND**

**LILIAN CHEPKORIR KITUR ..... OBJECTOR**

**RULING**

1. The petitioners have filed a summons for rectification dated 8th July, 2024 seeking the following orders;
  - (i) That the certificate of confirmed grant issued to Joseph Kiprono Chepkwony and John Kipngeno Chepkwony be rectified in the following respect provided for by Rule 43(1) of the probate and administration rules in terms of paragraph 4 of the supporting affidavit.
  - (ii) That the costs of this Application be in the cause.
2. The application is supported by grounds on the face of it and the supporting affidavit of Joseph Kiprono Chepkwony the 1st petitioner herein
3. The petitioner avers a certificate of confirmation of grant was made to the petitioners on the 31st day of January, 2022, he attached a copy of the said certificate of confirmed grant.
4. The petitioner avers that a survey property being Kericho/Kabartegan/211 was conducted on 19th June, 2024 and it came to their realization that the ground area is 29.24 acres and not 34 acres, he attached a copy of the surveyors report.



5. The petitioner avers that the grant dated 31st January, 2022 need to be rectified to accord with the ground acreage as follows: -

The 1st House 14.62 acres

Priscila Chelangat Chepkwony

Joseph K. Chepkwony

John K. Chepkwony

Simon K. Chepkwony

The 2nd House 14.62 acres

Paul Chepkwony

Joseph K. Chepkwony

Charles K. Chepkwony

Richard Chepkwony

6. The petitioner avers that in the circumstances it is fair, just and necessary to have the certificate of confirmed grant rectified.
7. The matter came up for inter partes hearing and the learned counsel for applicant stated that the application was served but there was no response on the part of the objector.
8. Having considered the instant application which is unopposed, this court finds that the issue for determination is whether to rectify the certificate of confirmed grant dated 31st January, 2022. Rectification of grant is provided for in Section 74 of the [Law of Succession Act](#), Cap 160 Laws of Kenya and Rule 43(1) of the [Probate & Administration Rules](#). Section 74 provides as follows:- Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly whereas Rule 43(1) provides:- Where the holder of the grant seeks pursuant to the provisions of section 74 of the Act rectification of an error in the grant as to the names or descriptions of any person or thing or as to the time and place of death of the deceased or, in the case of a limited grant, the purpose for which the grant was made, he shall apply by summons in Form 110 for such rectification through the registry and in the cause in which the grant was made.
9. The petitioners herein are seeking to have the grant rectified to indicate that the Kericho/ Kabartegan/211 measures 29.24 acres and not 34 acres as intimated by the petitioner during the confirmation of the grant and that this finding is pursuant to a survey which was conducted on 19th June, 2024. I have perused the application and the annexures, particularly the survey report which shows that the said land measures 29.24 acres. It is my considered view, the report produced by the petitioners is sufficient proof of the acreage of the subject property. However, this court has to consider whether such an error can be rectified within the ambit of section 74 of the [Law of Succession Act](#). Section 74 provides for errors that may be rectified by a court to include errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant. The error in this instant case is one of the description of property, however, the resultant effect of such rectification will result in redistributing the estate. Such an error if rectified by the court is so fundamental that it will go to the core of the distribution. Therefore, the proper approach would be for the parties to apply for an application of review of the orders made at the confirmation of grant which would accommodate the changes in acreage of the suit property. The court may then review its orders



made in confirming the grant which essentially distributed the deceased's estate. It is my considered view that altering the shares of the beneficiaries in the estate is not within the list of errors that can be rectified by way of rectification of grant under section 74 of the *Law of Succession Act*. The appropriate application in the circumstances is that for review.

10. Consequently, the summons for rectification dated 8th July, 2024 is without merit, it is hereby dismissed with each party bearing its own costs.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 29<sup>TH</sup> DAY OF MAY 2025.**

.....

**J.K. SERGON**

**JUDGE**

In the presence of:

Court Assistant - Rutoh

Okok for the Petitioner

