



REPUBLIC OF KENYA



**In re Estate of Viviam Talash Ntimama (Deceased) (Succession Cause  
287 of 2020) [2025] KEHC 7501 (KLR) (Family) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7501 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 287 OF 2020  
PM NYAUNDI, J  
MAY 29, 2025  
IN THE MATTER OF VIVIAM TALASH NTIMAMA (DECEASED)**

**RULING**

1. The Summons dated 3<sup>rd</sup> October 2024 is presented under rule 43 of the [Probate and Administration Rules](#) and seeks the following orders-
  - i. The properties referred to as Flat No. A22 North Side Road, Wandsworth Common London, SW 18521 be removed from the list of the properties in the said estate.
  - ii. The Grant be amended to exclude the said property referred to as Flat No. A22 North Side Road, Wandsworth Common London, SW 18521
  - iii. The grant be amended to distribute seventy per cent (70%) share in Title No CIA Mara/Olopito.3 to the Estate of Vivian Talash Ntimama.
2. The Application is supported by the joint affidavit sworn by Eric Kariuki Kimani and Sanau Ntimama Koillapa sworn on 3<sup>rd</sup> October 2024 as joint administrators of the estate of the deceased herein. The changes in the assets of the estate of the deceased are to reflect the decision in HCF P&A/E1777/2021.
3. The Respondents have filed a Notice of Preliminary Objection dated 24<sup>th</sup> February 2025 which is premised on the following grounds
  - i. That the application is incompetent and a nullity and therefore be dismissed as prayer 1 (c) of the summons for rectification is res judicata having been determined by a court of competent jurisdiction in Narok HC F P& A 12 of 2017 *Estate of William Ntimama (Deceased)*;
  - ii. That the application contravenes mandatory provisions of law as guided by Section 7 of the [Civil procedure Act](#).
  - iii. That the application is an abuse of the Court process, is fatally and incurably defective and cannot stand in law.



- iv. That the applicant's claim is misconceived, misdirected and misled and therefore the prayers sought cannot stand in law.
4. The Application was canvassed via written submissions. Those of the Respondent are dated 8<sup>th</sup> April 2025.
5. It is submitted that the issue of the ownership of Apartment Unit Number C4 in Block C erected on land reference number 2/220 (original number 2/37/1/1) be included in the schedule of the properties of the deceased.
6. I have looked at the draft certificate of confirmation of Grant. It does not include apartment No. C4 which the respondents are objecting to.
7. I am however unable to allow the application for rectification as consent referred to as having been entered into with the administrator of the Estate of Dorcas Pedelai Ntimama has not been availed to court.
8. The matter will be mentioned on 4<sup>th</sup> June 2025 for the Administrators herein to avail the consent and to take further directions on the Application. Leave is granted to the administrators to file a supplementary affidavit.

It is so ordered.

**SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 29TH DAY OF MAY, 2025.**

**P M NYAUNDI**

**HIGH COURT JUDGE**

In the presence of:

No appearance by parties

Fardosa Court Assistant

