



REPUBLIC OF KENYA



**In re Estate of Mbui Janake alias M'Mbui Kanake alias Mbui Gakiira (Deceased)
(Succession Cause 323 of 2015) [2024] KEHC 3590 (KLR) (22 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3590 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
SUCCESSION CAUSE 323 OF 2015**

LW GITARI, J

MARCH 22, 2024

FORMERLY PM'S CHUKA SUCCESSION CAUSE NO.56 OF 2011

**IN THE MATTER OF THE ESTATE OF MBUI JANAKE ALIAS
M'MBUI KANAKE ALIAS MBUI GAKIIRA (DECEASED)**

JAMES GITONGA MBURUGU.....ADMISTRATIX/APPLICANT

RULING

1. The Administrator/Applicant filed the summons dated 28/11/2023 under Section 74 of the *Law of Succession Act* Rule 43, 59 (1) and 73 of the *Probate and Administration Rules*, Section 47 of the Act and Article 159 (2) (a) (b) (c) (d) and (e) of *the Constitution*.
2. The applicant is mainly seeking an order that the certificate of confirmation of grant issued on 9/7/2017 be rectified in the following manner; that the grant has indicated that the deceased's names Mbui Janake alias M'Mbui Kanake whereas his land parcel reads as Mbui Gakiira and hence the names of deceased should read as Mbui Janake alias Mbui Gakiira.
3. That the beneficiaries names James Mworira and Lawrence Njuki ought to read as Samson Mworira M'Mbui and Lawrence Njuki M'Mbui. That Land Parcel No. Abothuguchi/Igane/467 to be distributed to Patrick Mutegi Mariu.
4. Abothuguchi/Kaongo/104 to James Gitonga Mburugu, Lawrence Njuki M'Mbui, Samson Mworira M'Mbui and Lawrence Njuki to Lawrence Njuki M'Mbui. The applicant contends that all he beneficiaries of the estate of the deceased have consented to the rectification of the grant to correct the anomalies which he has pointed out.
5. I have considered the application. Section 74 of the *Law of Succession Act* provides:-

“ Errors may be rectified by the court:-



“Errors in names and descriptions or in setting out the time and place of 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 or amend accordingly.”

6. This court has jurisdiction to rectify the grant in order to correct the names and other errors that may be apparent on the certificate without interfering with the substance of the grant. In this matter the applicant is seeking the correction of names and the distribution having discovered that the one of the parcels of land is smaller than what is indicated on the certificate of confirmation of grant.
7. I note from the record that the beneficiaries have signed a consent on the mode of redistribution. I also note from the record that the beneficiaries appeared before me on 12/2/2024 and then confirmed that they have no objection to the rectification of the grant.
8. For these reasons I find that the application has merits. I allow the application as prayed. The certificate of confirmation of grant shall be rectified as prayed.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 22ND DAY OF MARCH 2024.

L.W. GITARI

JUDGE

22/3/2024.

