

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

MISC SUCCESSION CAUSE NO E37 OF 2023

**IN THE MATTER OF THE ESTATE OF THE LATE MUKESH KESHA VJI
SHAH (DECEASED)**

THROUGH

**NISHI AASHISH.....1ST
APPLICANT**

**KRINA SHAH MUKESH.....2ND
APPLICANT**

**EKTA MUKESH SHAH.....3RD
APPLICANT**

Coram: Before Justice R. Nyakundi

M/s Ngigi Mbugua & Co Advocates

RULING

1. What is pending before this court determination are summons for rectification of Grant dated 24th July 2025 brought under section 47 and 74 of the Law of Succession Act and Rule 73 of the Probate and Administration Rules where the Applicants are seeking the following orders:
 - a) That the Grant of Letters of Administration testate made by this court on 2/11/2016 and confirmed on 3/11/2023 be and is hereby ordered rectified.
 - b) The rectification be that the initial administrator URMILA MUKESH SHAH be deleted from the role of administrator the reason being that she is deceased and be substituted with her children namely

NISHI AASHISH SHAH, KRINA SHAH MUKESH and EKTA MUKESH SHAH.

- c) THAT the shares of the assets which were bequeathed to deceased URMILA MUKESH SHAH shall be given to aforementioned children in equal shares.
 - d) Costs of this application be in the cause.
2. The summons is made on the following grounds among others:
- a. That the initial administrator died on 8/5/2025.
 - b. That it is fair and just that these changes be made in the grant for better winding up of the estate by the applicants.
3. The summons is supported by the annexed affidavit dated 24th July 2025 sworn by NISHI AASHISH SHAH who deponed as follows on oath;
- a) That I am the 1st applicant and the proposed administrator of the estate of our late father MUKESH KESHAVJI SHAH who died on 23/06/2016.*
 - b) That grant of letters of administration testate was issued to our mother 2/11/2016 and confirmed on 3/11/2023.*
 - c) That however my mother died on 8/5/2025 before distributing the estate.*
 - d) That I have taken the advice of our counsel on record, Mr. Ngigi Mbugua that the estate cannot be left un-administered hence this application.*
 - e) THAT our late father left a will dated 31/3/2009 which allows me and my other siblings who are also applicants namely Krina Shah Mukesh and Ekta Mukesh Shah to be the administrators of the estate.*
 - f) That the rectification will assist winding up the estate and actualize the specific bequeaths made in the confirmation certificate.*
 - g) That the application is merited and necessary in the circumstances*

Decision

4. This matter is about rectification of grant as provided for by section 74 of the Act which states 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." Also Rule 43 (1) of the Probate and Administration Rules states as follows:

"43(1) Where the holder of a 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 or place of the 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 issued."

5. The case before court cannot fit the test provided for under section 74 of the Law of Succession Act. The grounds in support of the application are essentially within the provisions of section 76 of the Law of Succession Act for reasons that the certificate of confirmation of grant has become inoperative following the demise of the administrator Urmila Mukesh Shah. Therefore it is just that the confirmed grant be revoked for the court to exercise discretion to appoint new administrators under section 76 of the Law of Succession Act. The grant of letters of administration has become useless and inoperative through subsequent circumstances by virtue of an act of God in which the personal legal representative appointed to carry out the duties of an administrator has since passed on.
6. This court therefore exercise discretion in the matter of the estate of the deceased to revoke the appointment of the administrator in circumstances which can be described as beyond the surviving beneficiaries. In this respect the proposed new administrators NISHI

AASHISH SHAH, KRINA SHAH MUKESH and EKTA MUKESH SHAH shall fill the necessary forms referenced as P&A 3, 5, 79, 43 for purposes of standing in as new executors to complete the transmission of the probate estate that in this respective case the shares and assets which were bequeathed to the deceased and administrator shall devolve to her children in equal shares.

7. Conclusively upon the Deputy Registrar establishing that the new Administrators have complied with procedural law, necessary steps shall be taken to issue fresh instruments on administration of the estate of the deceased. Based on this the estate new executors shall be at liberty to proceed to comply with the law of administration. It is so ordered.

**DATED, SIGNED AND DELIVERED VIA EMAIL AT ELDORET THIS 7TH
AUGUST 2025**

.....

**R. NYAKUNDI
JUDGE**

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