



**In re Estate of David M'mwirebua Barethi alias Mwirebua Mbarethi (Deceased)
(Succession Cause 3 of 1985) [2023] KEHC 2504 (KLR) (28 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2504 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 3 OF 1985
EM MURIITHI, J
MARCH 28, 2023**

BETWEEN

GLADYS KAROKI PETITIONER

AND

HENRY KIRIMI MUTUMA APPLICANT

RULING

1. By Summons under certificate of urgency dated July 26, 2022 pursuant to Section 47 of the [Law of Succession Act](#), Rules 49 and 73 of the [Probate and Administration Rules](#), Section 70 of the [Land Registration Act](#), Sections 1A, 1B and 3A of the [Civil Procedure Act](#), and all enabling provisions of the law, the applicant seeks lifting of all the inhibitions/and or restrictions registered against Land Parcel No Kiirua/Ruiri/4603, and the service of this order upon the Land Registrar, Meru for compliance.
2. In his affidavit in support of his application, the applicant avers that on November 21, 2019, the court issued inhibition orders restraining any dealings in Land Parcel No Kiirua/Ruiri/4603. He avers that he is unable to deal with his parcel of land in view of the consent entered into by the beneficiaries on March 12, 2020, due to the existence of the said inhibition and/or restriction on the land. He now seeks to have the order of inhibition registered against the aforesaid parcel of land lifted.
3. The petitioner/respondent did not file any response to the application.

Analysis and determination

4. The sole issue for determination is whether the application for the lifting of all the inhibitions/and or restrictions herein is merited.
5. The grant of letters of administration intestate issued to the petitioner herein, was confirmed by the court pursuant to the consent of the beneficiaries dated March 12, 2020.



6. Land Parcel No Kiirua/Ruiri/3825 was by consent given to Ann Mwari Mwirebua. Ann Mwari Mwirebua swore at paragraph 9 (b) of her replying affidavit dated December 4, 2019 that, “Land Parcel No Kiirua/Ruiri/3825 which was subdivided into Kiirua/Ruiri/4809, Nos 4810 and Nos 4603 of which I sold the 3 parcels of land.”
7. The applicant has exhibited a certificate of official search dated July 25, 2022 showing that he is the registered proprietor of Kiirua/Ruiri/4603.
8. This court is, therefore, satisfied that the applicant is deserving of the orders sought.

Orders

9. Accordingly, for the reasons set out above, this court finds that the application dated July 26, 2022 is merited and it is hereby allowed.
 - 1) The inhibition and/or restriction registered against Land Parcel No Kiirua/Ruiri/4603 is hereby lifted.
 - 2) The order issued hereinabove above to be served upon the Land Registrar, Meru for compliance.
10. There shall be no order as to costs.

Order accordingly.

DATED AND DELIVERED ON THIS 28TH DAY OF MARCH, 2023.

EDWARD M MURIITHI

JUDGE

Appearances:

Applicant in person.

M/S Wamache & Co Advocates for the Respondent.

