



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Gerald Meru Kabubia (Deceased) (Succession Cause  
196 of 1994) [2023] KEHC 2551 (KLR) (28 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2551 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
SUCCESSION CAUSE 196 OF 1994  
EM MURIITHI, J  
MARCH 28, 2023  
IN THE MATTER OF THE ESTATE OF GERALD MERU KABUBIA (DECEASED)  
  
IN THE MATTER OF  
JASPER GITONGA KABUBIA ..... PETITIONER  
  
AND  
GERALD MURITHI ..... APPLICANT**

**RULING**

1. By an amended notice of motion dated August 9, 2021 pursuant to Section 70 (d) of the [Land Registration Act](#), the applicant seeks the removal of inhibition on title to land parcel No Abogeta/Lower-kiungone/800 with no orders as to cost.
2. The application is supported by the grounds that the issues giving rise to the inhibition have since been amicably resolved, and it is only fair that the same is removed, to facilitate the completion of this cause. The applicant swore a supporting affidavit averring that LR Abogeta/Lower-kiungone/800 is registered in the name of the petitioner, the administrator herein. The inhibition was registered to prevent intermeddling with the said property, but after the issue of intermeddling was amicably resolved, the said inhibition should be removed to enable the transfer of the land to Bedan Moses K. Mbae.
3. The petitioner did not file any response to the application.

**Analysis and determination**

4. The sole issue for determination is whether the application for the removal of inhibition on title to suit land is merited.



5. Section 70 of the *Land Registration Act* provides for cancellation of inhibition as follows:

“70. The registration of an inhibition shall not be cancelled except in the following cases—

- (a) on the expiration of the time stated in the inhibition;
- (b) on proof to the satisfaction of the Registrar of the occurrence of an event stated in the inhibition;
- (c) on the land, lease or charge being sold by a charge, unless such sale is itself inhibited; or
- (d) by a consequent order of the court.”

6. The inhibition sought to be removed was placed by the applicant to prevent intermeddling with the said property. After resolving the issue of intermeddling amicably, it is now prudent to have the said inhibition removed to enable completion of the transmission process.

7. The court notes the green card for LR No Abogeta/L-Kiungone/800 showing that Bedan Moses K Mbae acquired title thereto on September 20, 1998. On February 16, 2001 an inhibition was registered on the said parcel pending the hearing and determination of this cause. Since it has been deponed on oath that the reason why the inhibition had been registered has since been resolved, and the applicant is person in whose favour the inhibition was registered, there is no basis for continuing the inhibition.

#### **Orders**

8. Accordingly, for the reasons set out above, the court allows the application dated August 9, 2021 as prayed.

9. There shall be no order as to costs.

Order accordingly.

**DATED AND DELIVERED ON THIS 28<sup>TH</sup> DAY OF MARCH, 2023.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances:

Applicant in person.

