



**In re Estate of the Late M'Riria M'Ithiribi alias M'Riria M'Thiribi (Deceased)
(Succession Cause 371 of 2013) [2023] KEHC 21224 (KLR) (27 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 21224 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 371 OF 2013
LW GITARI, J
JULY 27, 2023**

**IN THE MATTER OF
PETER MUTETHIA M'RIRIA APPLICANT**

RULING

1. Before me is a notice of motion brought under Section 70 (d) of the [Land Registration Act](#) No 3/2012. It seeks an order that the court be pleased to remove the inhibition on the title to land Parcel Number, Nyaki/Kithoka/2679 with no orders as to costs.
2. The application is based on the following grounds.
 - a. That Honourable court at Meru Succession Cause No 371/2013 issued on inhibition order against land parcel No Nyaki/Kithoka.2678.
 - b. That the inhibition was issued by this Honourable court at Meru on March 27, 2015 and was registered on the land parcel on April 1, 2015
 - c. That the inhibition orders were placed to preserve the *status quo* of the estate until pending hearing and determination of the succession cause.
 - d. That the said succession cause was determined and the certificate of confirmation of grant was issued to us and case was finalized on 10th November, 2021.
 - e. That it is only fair, just and equitable that this application be allowed to enable the implementation of the said grant.
3. The application is supported by the affidavit of Peter Mutethia M'Riria, the applicant herein sworn on May 23, 2023. The applicant avers that he had applied for an order of inhibition over the said land parcel to preserve the *status quo* of the estate pending the hearing and determination of the succession cause. Hat the succession cause has been determined and the certificates or grant was issued. That since he is the one who had applied for the inhibition orders, no prejudice will be suffered by any party.



4. I have considered the application. From the record, this court, J.A Makau Judge, issued an order of inhibition on LR. Nyaki/kithoka/2678 pending the hearing and determination of the summons and until further orders of the Honourable court. The order was issued on March 24, 2015. This was issued in an application filed by Jacob Kirimi Riria and Peter Mutethia M’riria dated March 18, 2015.
5. A ruling dated November 16, 2017, in the said application was delivered by Lady Justice Anne Ong’injo who revoked and nullified the grant issued to Zakaria Mwenda M’Riria on September 27, 2013. The judge proceeded and appointed Zakaria Mwenda M’riria and Jacob Kirimi Riria. The two proceeded and filed the summons dated June 25, 2018 seeking to have the grant issued to them confirmed and the estate of deceased be distributed.
6. The summons was allowed on November 27, 2018 and the grant was confirmed. The applicant Peter Mutethia filed a summons dated May 28, 2021 seeking an order that the Deputy Registrar be empowered to sign all documents on behalf of the petitioner to effect the transfer of the share of Peter Munyuthia. The application was not opposed and was allowed by Cherere, Judge on November 10, 2021.
7. The applicant now seeks an order that the inhibition which he placed on the land parcel No Nyaki/Kithoka/2679 being removed as it was meant to preserve the said land parcel pending the hearing and determination of the succession cause.
8. I have considered the application. The grant of letters of administration in this matter was confirmed and the estate was distributed. There is therefore no matter pending determination in this cause.
9. Section 70 (d) of the *land Registration Act* (Cap 300 Laws of Kenya) provides that-;
“The registration of an inhibition shall not be cancelled except in the following cases –
d) by a consequent order of the court.”
10. The applicant is the one who had applied for inhibition order. He now depones that the inhibition has now served its useful purpose and should therefore be removed. In the circumstances, I find that the application has merits. I order as follows-;
 1. The inhibition issued by this court on April 1, 2015^{{}^{}{}} over Land Parcel No Nyaki/Kithoka/2678 is hereby ordered to cancelled.
 2. The Land Registrar is ordered to cancel and remove the inhibition order in the land Parcel No Nyaki/Kithoka/2678 forthwith.

DATED, SIGNED AND DELIVERED AT MERU THIS 27TH DAY OF JULY 2023

In presence of

Court Assistant – V. Kiragu

Applicant

Hon. Lady Justice L. Gitari

High Court - Judge

