



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**CIVIL SUIT NO. 2 OF 2018**

**CELINA KAREA ..... PLAINTIFF**

**VERSUS**

**ALOISE MURIATI THIRINGI ..... DEFENDANT**

**RULING**

[1] Before the court is a Notice of Motion brought pursuant to Order 51 Rule 1 of the Civil Procedure Rules, Sections 1A, 1B and 3A of the Civil Procedure Act, Cap 21 Laws of Kenya seeking the following orders:

- a. *That the orders of inhibition over parcel of land No. NTIMA/IGOKI/1022 and PLOT NO. 4B MARIMANTI MARKET given on 14/7/2011 and issued on 19/7/2011 be lifted and that the inhibitions be cancelled.*
- b. *That any cautions placed by the plaintiff/respondent over parcel of land No. NTIMA/IGOKI/1022 and Plot No. 4B MARIMANTI MARKET be cancelled.*
- c. *That costs be provided for.*

[2] The application was based on the grounds on the face of it and on the supporting affidavit of Aloise Muriati Thiringi who averred that on 14/2/2019 the suit herein was dismissed and there is therefore nothing pending for determination. The Land registrar has however refused to remove the orders of inhibition even though the interim orders in force were discharged. Additionally, the plaintiff had lodged a caution over Parcel No. NTIMA/IGOKI/1022 prior to the inhibition orders and there is no justifiable reason why the said caution should not be cancelled from the register.

[3] There was no Grounds of Opposition filed to the Motion and Counsel for the Plaintiff did not attend court on 16<sup>th</sup> November 2020, the hearing date of which was taken before the court on 29/9/20 in the presence of counsel for both parties in terms as follows:

**“30/9/20**

*Mr. Kimathi E for the Defendant / Applicant*

*Mr. Mutuma, G. for the Plaintiff*

**Court**

*Let the Respondent file and serve a Replying Affidavit if any within 14 days. Hearing of the application be heard on 16/11/2020.*

*The applicant has leave to file a Response within 7 days of service, if any.*

*A. Mabeya, J.*

*29/9/2020.”*

[4] It is clear that the order of inhibition was made so as to preserve the title of the suit properties pending hearing of the suit. I have confirmed that the present suit was dismissed by the Court by its order of 14/2/2019 (per Mabeya, J.) as follows:

***“In the absence of either the Plaintiff or his counsel and in the absence of reasons under Order 12 Rule 3 of the Civil Procedure***

*Rules, the suit is hereby dismissed with costs for non prosecution. Any Interim Orders in force are hereby discharged.”*

**Orders**

[5] Accordingly, for the reasons set out above, the court allows this application and, consequently, order that the orders of inhibition and cautions in the register of the land parcels NTIMA/IGOKI/1022 and PLOT NO. 4B MARIMANTI MARKET be lifted and cancelled forthwith.

[6] The applicant shall have the costs of this application.

*Order accordingly.*

**DATED AND DELIVERED THIS 28<sup>TH</sup> DAY OF JANUARY 2021.**

**EDWARD M. MURIITHI**

**JUDGE**

**Appearances:**

Mr. Kimaita, Advocate for the Applicant.