



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

HIGH COURT MISC. APPLICATION NO. 6 OF 2017

BETH WAMBUI NJAU.....APPELLANT /RESPONDENT

- V E R S U S -

REGINA WANGARI GACIRA.....RESPONDENT/APPLICANT

R U L I N G

Before me is the Notice of Motion dated 6th March 2017 brought under section 3A of the Civil Procedure Act and all other enabling laws.

The application sought three orders.

- a) Spent
- b) Spent
- c) The caution and prohibitory orders registered against the title **Mwerua/Gitaku/269** be lifted.

The application is supported by the affidavit of Maina Kagio Advocate. The court file had been missing since 7th August 2016 hence the first 2 prayers seeking to have a skeleton file opened and the file herein reconstructed. The 2 orders were spent upon the file being traced by the registry .

The appellant Beth Wambui in HCCA no. 48 of 1996, had caused a prohibitory order to be registered against the above mentioned title pending the hearing and determination of the appeal.

The appeal was dismissed on 7th October 2004. The green card abstract annexed to the affidavit clearly indicates that the prohibitory order was predicated on the pending appeal High Court Civil Appeal No. 48/1996.

Following the dismissal of the appeal, there is clearly no leg upon which the prohibitory order against the title can stand.

This application was served upon the firm of J. Kibicho & Co. Advocates for the respondent.

There was no appearance despite service, and receipt of the hearing notice on 29th September 2017 way before the hearing date of 4th December 2017 .

The application is unopposed, and even without that, it is merited.

The prohibitory order registered against **Mwerua/Gitaku/269** on 19th January 1999 is and is hereby lifted with costs to the applicant.

Dated, delivered and signed this 26th Day of January 2018 at Nyeri

TERESIA M MATHEKA

JUDGE

Court Assistant Hariet.

Ms. Macharia holding brief for Maina Kagio for applicant

J.K Kibicho for respondent N/A