



**George v Senior Principal Magistrate Maua & 2 others (Judicial Review
34 of 2010) [2022] KEELC 2808 (KLR) (14 June 2022) (Ruling)**

Neutral citation: [2022] KEELC 2808 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
JUDICIAL REVIEW 34 OF 2010**

**CK YANO, J
JUNE 14, 2022**

BETWEEN

M'ERIMA M'ARUCHIU GEORGE PLAINTIFF

AND

SENIOR PRINCIPAL MAGISTRATE MAUA 1ST DEFENDANT

CHARLES NYAGA 2ND DEFENDANT

RICHARD KIMENCHU 3RD DEFENDANT

RULING

1. This ruling is in respect of the notice of motion application dated May 16, 2022 by the Hellen Muthoni, the 1st respondent/applicant seeking that the inhibitions and caution lodged in respect of LR. No. Njia/burieruri/733 And Njia/burieruri 2502 made by the court on 19th April 2007 and on 23rd June 2008 respectively be removed or lifted forthwith.
2. The application is supported by the affidavit of Hellen Muthoni sworn on 16th May 2022 and is based on the grounds that the applicant in the course of the proceedings and in particular on 19th April, 2007 and 23rd June 2008 respectively lodged an inhibition and caution against the applicants' LR Nos Njia/burieruri/733 and Njia/burieruri/2502 respectively, the subject of this suit until the suit is heard and determined. That there is nothing pending in view of the suit having been dismissed on two occasions, on 30th June 2017 by Cherono J and on November 8, 2018 by L.N Mbugua J respectively, therefore the respondents pray that the inhibition and caution be lifted or removed forthwith.
3. The application was served upon M/s Mutembei and Kimathi Advocates for the ex-parte applicant on May 26, 2022. They neither filed a response nor appeared before court on 1 June 4, 2022 when the application came up for hearing. M/s Kinyanjui, learned counsel for the applicant urged the court to treat the application as unopposed and allow the same since there is nothing pending, the suit having been dismissed by the court.



4. I have considered the application and the submissions made. I have also perused the affidavit in support of the application and the submissions made. I have also perused the affidavit in support of the application. The court has also perused the court record.
5. The record indicates that the matter came up for hearing on June 30, 2017, but the applicant and his counsel were absent. The respondents were however present. Cheron J made an order that this JR No 34 of 2010 be dismissed for non-attendance and also for want of prosecution.
6. The record further shows that the applicant filed an application dated September 22, 2017 seeking the reinstatement of the suit which was dismissed on June 30, 2017. However, by a ruling delivered on November 8, 2018, LN Mbugua J found that the application for reinstatement was unmeritorious and dismissed the same with costs to the 1st respondent.
7. From the foregoing, I do agree with applicant's assertion that there is no suit pending the suit having been dismissed on 30th June, 2017. I therefore find that the application is merited and should be allowed. Further, section 73 of the [Land Registration Act](#) gives the court powers to remove a caution. The orders of inhibition and caution lodged in respect of the suit properties serve no purpose, the suit having been dismissed years ago. In the result, I find that the notice of motion dated May 16, 2022 is merited. The same is hereby allowed as prayed. However, since there was no response filed, I order that each party bear their own costs.

DATED, SIGNED AND DELIVERED IN OPEN COURT VIRTUALLY AT MERU THIS 14TH DAY OF JUNE 2022 IN THE PRESENCE OF -;

C.A Mwenda

M/s Kinyajui for applicant.

JUSTICE C.K YANO

ELC JUDGE

