

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 1435 of 1979 (OS)

NJUGUNA KAMAU.....PLAINTIFF/APPLICANT/DECREE HOLDER

VERSUS

KAMAU KIBE.....DEFENDANT/RESPONDENT/JUDGMENT DEBTOR

R U L I N G

Before me is an application by way of Notice of Motion in which the defendant seeks order that the prohibitory order issued by this court on 4th February 1986 stopping any dealings in LR No. LOC. 18/KIRERE/601 be lifted as the Judgment/Debtor has paid all the costs. In support of the application Kamau Kibe the applicant herein has sworn an affidavit giving grounds. Briefly the facts that gave rise to this litigation may be stated.

The respondent filed a suit against the applicant by way of originating summons dated 9th May 1979 which suit was later dismissed with costs for want of prosecution. On 31st March 1992 the costs were assessed at Sh. 15,831/=. On application by the applicant the court on 4th February 1986 issued a prohibitory order prohibiting the Judgment/Debtor from alienating LR. No. LOC 18/KIRERE/601 so as to enforce payment of the ordered costs. The costs of Sh 15,831/= were subsequently paid and hence this application to have the said prohibitory orders lifted.

Mr. Kinuthia Counsel for the applicant submitted that the respondent having paid the costs an order by this court it is only fair and just that the said prohibitory order be lifted.

The Judgment Debtor having paid all the costs as ordered by the court to the Decree/Holder I agree with Counsel for Decree/Holder that the said prohibitory order ought to be lifted. Accordingly, the application is allowed in terms of prayer (a) of the Notice of Motion dated 28th November 2007.

Delivered and dated at Nairobi this 16th day of May 2008.

J. L. A. OSIEMO

JUDGE