



**M'rukaria v M'angaine & another (Environment & Land Case
203 of 1990) [2023] KEELC 15993 (KLR) (8 March 2023) (Ruling)**

Neutral citation: [2023] KEELC 15993 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT & LAND CASE 203 OF 1990**

CK NZILI, J

MARCH 8, 2023

BETWEEN

FREDRICK MUTHURI M'RUKARIA PLAINTIFF

AND

M'IKIARA M'ANGAINE 1ST RESPONDENT

NKUBITU M'ANGAINE 2ND RESPONDENT

RULING

1. The court is asked to lift and vacate orders of inhibition registered against L R No Abothuguchi/Katheri/166 & 167 on July 31, 1991, on the basis that the same have been overtaken by events, following final orders made by the court on August 3, 1992. In the supporting affidavit by Fredrick Muthuri sworn on August 2, 2022, the deponent stated that following the inhibition orders, parties compromised the suit through a consent dated July 25, 1992, filed before the court on July 27, 1992 and later adopted by the court on August 3, 1992.
2. The applicant attached the order, a copy of the consent and the court order as annexures marked FMM "1", "2" and "3", respectively. It is the applicant's position therefore that, the final court order cannot be enforced unless the pending restrictions over the title are vacated.
3. The court has gone through the skeleton file and the application herein. The parties to the consent and the ones who had filed the suit appear materially different. There is also no indication if after the consent was filed, a decree of the court was extracted and issued apart from the order dated August 3, 1992. As regards the order made, the parties who were to be beneficiarily entitled to the land were not parties to the suit.
4. So, in other words, the parties who agreed to the inhibition orders to be issued in the first instance were not the ones who allegedly consented to the orders over the title deed.



5. It is also not clear why there has been an inordinate delay in the execution of the consent order if at all parties consented to final orders, almost 2 years after the inhibition orders came into operation. Further, the applicant has not explained if they took the order to the land registrar and he/she declined to implement it on account of the alleged final orders. See *Julius Nturibi Rukaria vs Mary Ncekei Kirianki & another* (2021) eKLR. *Eliphas Mbae Arithi vs Angela Gatumi Mucheke* (2021) eKLR.
6. For the above reasons, I find it inappropriate to lift the inhibition under the circumstances. Consequently, the application dated August 2, 2022 is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT THIS 8TH DAY OF MARCH, 2023

In presence of:

C/A: Kananu/John Paul

Sandi for applicant

HON. C.K. NZILI

ELC JUDGE

