



REPUBLIC OF KENYA



**Ali v HFC Limited (Civil Miscellaneous E141 of 2024)
[2025] KEHC 10190 (KLR) (16 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10190 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CIVIL MISCELLANEOUS E141 OF 2024
RN NYAKUNDI, J
JULY 16, 2025**

BETWEEN

SAID NJERI ALI PLAINTIFF

AND

HFC LIMITED RESPONDENT

RULING

1. Before this court is an application dated 22nd day of March 2024 seeking the following orders:
 - a. Service of this application be dispensed within the first instance and the matter be certified as urgent and be heard ex parte in the first instance
 - b. That HFC Limited be ordered to immediately discharge the charge registered on LR Eldoret Municipality Block 5/42 and further release the title deed to the applicant Said Njeri Ali
 - c. Costs of application be provided for
2. Which application is based on the grounds that: -
 - a. A certificate of rectified confirmation of grant was issued by the honorable court on 05/08/2022 in which the property known as LR Eldoret Municipality Block 5/42 was listed for distribution to beneficiaries
 - b. The said property had a charge registered to it by the respondent
 - c. The respondent has failed/refused to discharge the said property even after compliance by the applicant
 - d. The beneficiaries allocated the property are suffering great loss as they are yet to enjoy the benefits



- e. It is in the interest of justice and fairness that this application be allowed
3. In addition the applicant relied on her own affidavit dated 22nd March 2024 which solemnly on oath states as follows:
1. That I am the Administrator of the estate of the late Ali Shitalo Ibrahim Alias Ali Ibrahim as well as the applicant herein hence competent to swear this affidavit.
 2. That a certificate of rectified confirmation of grant was issued by the honorable court on the 5th of August 2022 in which Eldoret Municipality Block/5/42 was listed for distribution. (see annexure marked SNA1)
 3. That the said property Eldoret Municipality Block/5/42 had a charge registered to it by the respondent.
 4. That our advocates on record duly requested for the title deed and discharge of charge from the respondent for the said property Eldoret Municipality Block/5/42 via a letter dated 22/11/22 which was duly received (see annexure marked SNA2)
 5. That the respondent duly received the request for discharge of charge and title deed and responded via a letter dated 28/11/2022 indicating corrections on the discharge of charge forms and also requested a copy of the certificate of confirmation of grant (see annexure marked SNA3)
 6. That we duly complied with the respondents requests however the respondents to date have not discharged the property known as Eldoret Municipality Block/5/42 despite numerous email correspondences. (see Annexure marked SNA3)
 7. That having been allocated and distributed property in the estate, the beneficiaries are yet to enjoy the benefits since the property has not been discharged without any valid reason at all.
 8. That it is fair just and expedient that the respondent be ordered to discharge the property known as Eldoret Municipality Block/5/42 and release its title deed.
 9. That it is in the interest of justice that this honorable court do allow the application in its entirety and have the matter be concluded.
 10. That what is deponed herein is true to the best of my knowledge, information and belief

Decision

4. The application demonstrates that the applicant has a legal interest in the suit property under Art 40 of the *constitution*. The bare perusal of the averments made in the affidavit discloses that the reliefs sought and decreed in the certificate of confirmation of grant cannot devolve to the beneficiaries until and unless there is a discharge of charge issued by the respondent bank
5. There is sufficient evidence that the respondent bank has been served with the suit papers touching on LR Eldoret Municipality Block/5/42. Drawing our attention to the paragraphs of this affidavit and the substantive evidence an order be and is hereby made to the branch manager of the Respondent Bank to show cause why the title deed of the aforesaid property has not been discharged within the provisions of the *land Act* 2012. The all purpose of this order is to ensure that the litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the court and exercise the mind of the respondent. Having in regard to section 1(a), 1(b) and 3 of the *criminal procedure Act* in



exercise of the powers under these provisions the Respondent Bank has 21 days to show cause or in the alternative released the title deed to the applicant. This application succeeds with no orders as to costs.

DATED, SIGNED AND PUBLISHED AT ELDORET THIS 16TH DAY OF JULY 2025

R. NYAKUNDI

JUDGE

M/s Sidi for the State

