



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Okwaro v Okwaro & 3 others (Environment & Land Case  
E013 of 2025) [2025] KEELC 3768 (KLR) (13 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3768 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT BUSIA  
ENVIRONMENT & LAND CASE E013 OF 2025**

**BN OLAO, J**

**MAY 13, 2025**

**BETWEEN**

**JOHN MABERRY OKWARO ..... PLAINTIFF**

**AND**

**BONIFACE OMONDI OKWARO ..... 1<sup>ST</sup> DEFENDANT**

**REGISTRAR OF LANDS BUSIA COUNTY ..... 2<sup>ND</sup> DEFENDANT**

**CHIEF SURVEYOR BUSIA COUNTY ..... 3<sup>RD</sup> DEFENDANT**

**ATTORNEY GENERAL OF KENYA ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. John Maberry Okwaro (the Plaintiff) has through his Notice of Motion dated 25<sup>th</sup> March 2025 sought the following orders against Boniface Omondi Okwaro, the Land Registrar Busia, The County Surveyor Busia and the Hon Attorney General (the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants respectively):
  1. Spent.
  2. Spent.
  3. That pending the hearing and determination of this suit, this Honourable Court do issue an order of inhibition stopping further dealings, registration and transactions over the land parcels No Samia/Wakhungu-Odiado/2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2524, 2515 and 2516.
  4. That costs of this application be borne by the Defendants.
2. The gist of the application is that the Plaintiff and the 1<sup>st</sup> Defendant are siblings and their late father Kanuti Okwaro who died on 17<sup>th</sup> October 2021 was the owner of the land parcel No Samia/Wakhungu-Odiado/33. Following the demise of their late father, the 1<sup>st</sup> Defendant secretly



- and fraudulently sub-divided the said land into sixteen (16) new parcels namely Samia/Wakhungu-Odiado/2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2524, 2515 and 2516. That new mutations were drawn without carrying out any actual survey on the ground and has caused unnecessary boundary disputes. The Plaintiff also discovered that his late father's signature on the mutation was forged in 2019 yet he had died in 2001. The 1<sup>st</sup> Defendant then proceeded to obtain the titles to the land parcels No Samia/wakhungu-odiado 2515 and 2506 yet he had not yet obtained any Grant of Letters of Administration in respect to the Estate of their late father.
3. The Plaintiff reported the fraud to the Bumala Criminal Investigations Office and the 1<sup>st</sup> Defendant was arrested. The case was however withdrawn by the Plaintiff on the understanding that the issue would be resolved through family discussions. The Plaintiff is apprehensive that during the pendency of this suit, the Defendants will continue to carry out activities on the land in dispute thus resulting in substantial loss and the family will be disinherited from their ancestral land hence this application.
  4. The following documents are annexed to the Motion:
    1. Copy of Mutation Form for the land parcel No Samia/wakhungu-odiado/33.
    2. Copy of Green Card for the land parcel No Samia/Wakhungu-Odiado/2495.
    3. Copy of judgment in Busia High Court Misc Civil Application No 48 of 2002.
    4. Copy of Decree in Busia Senior Resident Magistrate's Court (Small Claim Land Dispute No 36 of 2001).
    5. Copy of Mutation Forms for the land parcels No Samia/wakhungu-Odiado 2495, 2246, 779.
  5. When the Motion was placed before me on 27<sup>th</sup> March 2025, I directed that it be canvassed by way of written submissions and that the Defendants be served with the Plaintiff's submissions and the Motion within 7 days after which they would have 14 days to file their responses and submissions. The matter would then be mentioned on 23<sup>rd</sup> April 2025 to confirm compliance and take a date for ruling.
  6. On 23<sup>rd</sup> April 2025 when the matter came up for mention, Mr Achieng counsel for the Plaintiff informed the Court that although he had served the Defendants with the Motion and submissions, he had not been served with any responses or submissions. None had been filed either although the Deputy Chief State Counsel one Staffort Nyauma had filed a Memorandum of Appearance on behalf of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants. The application is therefore not opposed.
  7. I have considered the application and the submissions by Mr Achieng counsel for the Plaintiff.
  8. Although the Plaintiff did not cite the provisions of the law upon which the motion is premised, it is clear that what he seeks is an order of inhibition to stop further dealings, registration and transactions on the land parcels No Samia/wakhungu-odiado/ 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2524, 2515 and 2516 pending the hearing and determination of this suit. In the suit, the Plaintiff seeks, inter alia, the cancellation of all the transactions done on the land in dispute so that the title reverts back to the deceased Kanuti Okwaro.



9. As stated earlier, the Plaintiff did not cite the provisions of the law upon which his application is founded. However, he seeks an order of inhibition and Section 68(1) of the *Land Registration Act* provides that:

“The Court may make an order (hereafter referred to as an inhibition) inhibiting for a particular time or until the occurrence of a particular event, or generally until a further order, the registration of any dealing with any land, lease or charge.”

An order of inhibition issued under Section 68(1) of the *Land Registration Act* is basically similar to an order of prohibitory injunction as it bars the transaction of any dealings on the land in dispute until the dispute over the ownership of the said land is heard and determined. That order, like an interlocutory injunction, seeks to preserve the property in dispute so that it is not dissipated pending the hearing of the case. From the chronology of the events, and which is not rebutted as the Defendants did not file any response to the Motion, the original land parcel No Samia/wakhungu-odiado/33 which belonged to the late Kanuti Okwaro has since his demise on 17<sup>th</sup> October 2001 been the subject of secret and fraudulent sub-divisions to create other parcels of land to the detriment of his beneficiaries. In the circumstances, it is only proper that the order of inhibition sought be granted as prayed to preserve the Estate of the late Kanuti Okwaro.

10. Ultimately therefore, and having considered the Plaintiff's Notice of Motion dated 25<sup>th</sup> March, 2025, I allow it in the following terms:
1. Pending the hearing and determination of this suit, an order of inhibition is hereby issued inhibiting any further dealings, registrations or transactions over the land parcels No Samia/wakhungu-Odiado/2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2524, 2515 and 2516.
  2. Costs shall be in the cause.

**BOAZ N. OLAO**

**JUDGE**

**13<sup>TH</sup> MAY 2025**

**RULING DATED, SIGNED AND DELIVERED ON THIS 13<sup>TH</sup> DAY OF MAY 2025 BY WAY OF ELECTRONIC MAIL.**

**BOAZ N. OLAO**

**JUDGE**

**13<sup>TH</sup> MAY 2025**

