

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC MISC. E30 OF 2021

JULIUS NTURIBI RUKARIA1ST APPLICANT

VERSUS

MARY NCEKEI KIRIANKI 2ND APPLICANT

M'RUKARIA M'NKUBITU 3RD RESPONDENT

RULING

1. By an application dated **10.8.2021** brought under **Section 70** of the **Land Registration Act, Order 51 Rule 1, Section 1A, 1B and 3A of the Civil Procedure Act**, the applicant seek lifting of inhibition orders issued and registered against **Parcels No's Nyaki/Giaki/2624 and 2625 and Nyaki/Thuura/3182, 3183, 3184 & 3185**.
2. The application is supported by an affidavit sworn by **Julius Rukaria** in which he states initially there was **Meru HCCA No. 108 of 2008** which was withdrawn and later a **Tigania Law Courts CC No. 101 of 2005** that was dismissed on account of res judicata.
3. It is averred the applicant sought for and was granted inhibition orders in **Tigania CC No.101 before** the said case was dismissed.
4. Once a suit is dismissed it is obvious whatever interim orders were existing stand vacated. So if the same party is the one who filed and was issued with orders of inhibition all what he needs to do is to supply the Land Registrar with a decree showing the matter in which inhibition was issued is finalized one way or the other.
5. The applicant has annexed JNR – 11a, a search for the land parcels in issue, which indicates the lifespan of the inhibition orders: **“is until civil suit No. 101 in the R.M's court at Tigania is heard and determination see order dated 6.6.06.”**
6. **Section 70** of the **Land Registration Act** provides an inhibition shall not be cancelled except on the expiration of the time stated in the inhibition or by a consequent order of the court. In the instant case, both spelt out in the inhibition has expired and a consequent order of dismissal of the suit made. All what remains is to bring to the attention of the Land Registrar the said developments.
7. There is no indication that the **Land Registrar Meru** has been supplied with a certified copy of the decree in the aforesaid suit and declined to remove the inhibition.
8. This court is not convinced that applicants has made any efforts to take the appropriate action. That notwithstanding and guided by **Section 1A, 1B and 3A** of the **Civil Procedure Act**, it is in the interest of justice to lift the inhibition order due to effluxion of time and settlement of the suit as submitted.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MERU THIS 17TH DAY OF NOVEMBER, 2021

In presence of:

No appearance for parties

Court Assistant - Kananu

HON. C.K. NZILI

ELC JUDGE