

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC APPEAL NO. 35 OF 2015

ELIPHAS MBAE ARITHI.....APPELLANT

VERSUS

ANGELA GATUMI MUCHEKE.....RESPONDENT

RULING

1. The applicant seeks the caution and or inhibition registered on 11.3.2014 over **L.R No. Nkuene/Mitunguu/861** be lifted for the reasons that the lower court **Suit No. Nkubu CC No. 74 of 2013** was determined and a decree/judgment issued on 1.7.2015 and the subsequent appeal finalized on 24.1.2018.
2. The applicant has attached a copy of a search certificate dated 6.7.2021. He states there is need to vacate the caution so that he implements the decree.
3. What is however apparent is that one Eliphas Albert Arithi is the one who placed the caution or inhibition until the hearing and determination of **Succession Cause No. 277 of 2008** vide an order issued on 6.5.2019.
4. In this file, I have not seen an order issued by this court for a caution to be registered. It has not been stated if the cautioner is one and the same person and if so whether the succession cause has now been heard and determined.
5. Under **Section 73 (1) of Land Registration Act 2012**, the court has powers to lift an inhibition order once it has served its purpose and on the happening of the event contemplated by the order.
6. This being an ELC, its mandate is limited under **Article 162 (2) (b) of the Constitution**. The order for inhibition was issued in **Succession Cause No. 277 of 2008**. It would amount to judicial overreach for me to issue orders given by a family/succession court. I decline to issue the orders sought.
7. In the premises the application is struck out with no order as to costs.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MERU THIS 20TH DAY OF DECEMBER, 2021

In presence of:

Wambua for appellant

Mbubuya for respondent

Court Assistant - Kananu

HON. C.K. NZILI

ELC JUDGE