



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**CIVIL CASE NO. 48 OF 1990**

**STEPHEN MBAYA M'MUGUNGA.....PLAINTIFF/RESPONDENT**

**VERSUS**

**ALEXANDER MURITHI M'MUTUNGA.....DEFENDANT/APPLICANT**

**R U L I N G**

This application is dated 27th April, 2015 and seeks orders

1. ***THAT this Honourable court be pleased to lift/discharge the orders of restriction granted restricting all dealings on the parcel of land No. ABOTHUGUCHI/MARIENE/744.***
2. ***THAT this Honourable Court do issue such further or better orders it deems fit as sell to meet the ends of justice.***
3. ***THAT costs of this application be borne by the respondents.***

It has the following grounds:

***(a) That the plaintiff filed this case way back in 1990 against the applicant.***

***(b) That the orders of inhibition were issued way back on 16.5.90 and the suit was dismissed for want of prosecution on 31.3.06.***

***(c) That before the suit was dismissed, the matter had not been prosecuted for about 13 years necessitating the honourable court to move, sue and dismiss the same.***

***(d) The defendant is desirous to utilize his land and thus prays for the restriction to be lifted.***

It is also buttressed by the Supporting Affidavit of the defendant sworn on 27th April, 2015.

It is noted that this suit was dismissed for want of prosecution on 31.3.06. the apposite restriction was registered against the suit land on 16.5.1990, 25 years ago. This suit was dismissed over 9 years ago. I find that the application merits to be allowed.

In the circumstances it is directed as follows:

1. ***The Restriction placed Upon title No. ABOTHUGUCHI/MARIENE/744 be lifted forthwith and the concerned Registrar is ordered to take necessary action to implement this order.***
2. ***Costs shall be in the cause.***
3. ***The Executive Officer and the Registry should have this suit noted as finally determined.***

*Delivered in Open Court at Meru this 4th day of May, 2015 in the presence of:*

Cc. Lilian/Daniel

Miss Kiome for the defendant

**P. M. NJOROGE**

**JUDGE**