

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT BUSIA
ELC MISC NO E010 OF 2025

HENRY MATENDECHERE OKOCHI
APPLICANT

= VERSUS =

THE LAND REGISTRAR, BUSIA 1ST RESPONDENT
THE HON. ATTORNEY GENERAL 2ND RESPONDENT

R U L I N G

1. **HENRY MATENDECHERE OKOCHI** (the Applicant) holds the title deed to the land parcel **NO BUKHAYO/NASEWA/2410** in trust for **NAHEMIAH AKWALE, LEVI PRACE, SHADRACK JUBIANT** and **MIKE FAVOUR** (all minors). He has filed this Notice of Motion dated 24th July 2025 premised under the provisions of **Sections 1A, 1B** and **3A** of the **Civil Procedure Act** as well as **Articles 53** and **159 (2)** of the **Constitution 2010**. The **LAND REGISTRAR** and **THE ATTORNEY GENERAL** are named as the respondents. The Applicant seeks the following orders with respect to the suit land:

1) Spent

2) That the Honourable Court be pleased to issue an order directed to the Land Registrar Busia

to amend title NO BUKHAYO/NASEWA/2410 by removing the name of NEHEMIA AKUALE, LEVI PRICE SHADRACK JUBIANT and MIKE FAVOUR (MINOR).

3) That this Honourable Court be pleased to issue an order directed to the land Registrar Busia to process, register and issue a new title for all that parcel of land NO BUKHAYO/NASEWA/2410 under the name of HENRY MATENDECHERE OKOCHI herein the Applicant.

4) That the Applicant be at liberty to dispose of all that land parcel NO BUKHAYO/NASEWA/2410 to cater for the best interest of the minors.

5) That costs of this application be provided for.

2. The Motion is based on the grounds set out therein and also supported by the Applicant's affidavit dated 21st July 2025.
3. The gravamen of the Motion is that the Applicant is the sole breadwinner of the minors who are in school. That he applied for a loan of Kshs.800,000 as working capital from Equity Bank but the business did not pick up and so he is at a risk of

being auctioned. He would like to resuscitate his business by selling the land parcel **NO BUKHAYO/NASEWA/2410** (the suit land) but he cannot do so since the same is in his name and those of the minors hence this application.

4. When the Motion was placed before me on 28th July 2025, I did not certify it as urgent but directed that it be canvassed by way of written submissions. Those were subsequently filed by **MR NYABUTO** instructed by the firm of **CHEGE KIBATHI & COMPANY ADVOCATES**. The Respondents did not file any response nor submissions.
5. When the Motion came up for directions on 30th September 2025, I directed that the Applicant appears personally on 1st October 2025 which he did and I put some questions to him which forms part of the record of that day.
6. I have considered the Motion as well as the submissions by counsel.
7. When the Applicant attended Court on 1st October 2025 following my enquiry to his counsel if he had any other parcels of land, the Applicant availed the original title deeds for the land parcels **NO BUKHAYO/NASEWA/7652, 2376** and **2290** all in his sole names. It does not make sense therefore, that he wishes to dispose off the suit land which he

holds in trust for the minors yet he has three (3) other parcels of land in his sole names and which he could easily dispose off to up-grade his business or for any other reasons. Besides, although in paragraph 5 and 7 of his affidavit he has deposed that he applied for a loan of Kshs.800,000 for his business which failed to pick up and therefore he faces the risk of having his property sold, he produced both the originals and photocopies of the land parcels **NO BUKHAYO/NASEWA/7652, 2376 and 2290** at my request and there is nothing to show that any of them have been charged to Equity Bank, or any other Bank to secure the said sum of Kshs.800,000 or indeed any other amount.

8. The Applicant has also deposed in paragraph 12 of his affidavit:

12: “That disposition of the subject property is in the best interest of the minors to wit; provision of food, payment of school fees, maintenance and securing sustainability of the same through resuscitating my business.”

9. Surely it cannot be in the best interest of the minors that the Applicant seeks to dispose of the only land which he holds in

trust for the minors yet he has at his disposal other parcels of land which he can dispose off in order to meet his other obligations including resuscitating his business. The Applicant is obviously being economical with the truth. His Motion is for dismissal. Further, to secure the suit land, I shall shortly be issuing inhibition orders on the same.

10. The upshot of all the above is that having considered the Notice of Motion dated 24th July 2025, I issue the following disposal orders:

- 1) The Motion is dismissed.**
- 2) An order of inhibition is hereby issued in accordance with Section 68 of the Land Registration Act inhibiting any dealing with the suit land until NEHEMIA AKWALE, LEVI PRAICE, SHADRACK JUBIANT and MIKE FAVOUR (minors) become of age.**
- 3) The above order be served upon the Land Registrar Busia forthwith.**
- 4) No orders as to costs.**

BOAZ N. OLAO

JUDGE

6TH OCTOBER 2025

**Ruling dated, signed and delivered by way of electronic
mail on this 6th day of October 2025.**

**BOAZ N. OLAO
JUDGE
6TH OCTOBER 2025**

ORIGINAL