



**Mulah v Kajiado; Summerlands Valley Developers Limited
(Interested Party) (Environment and Land Miscellaneous Application
E022 of 2025) [2025] KEELC 5762 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5762 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E022 OF 2025
MD MWANGI, J
JULY 31, 2025**

BETWEEN

TAANI OLE MULAH APPLICANT

AND

LAND REGISTRAR , KAJIADO RESPONDENT

AND

SUMMERLANDS VALLEY DEVELOPERS LIMITED INTERESTED PARTY

*(In respect of the Notice of Motion application dated 25th March
2025 pursuant to Section 73(1) of the Land Registration Act)*

RULING

Background

1. By way of a notice of motion application dated 25th March 2025, the Applicant, Taani Ole Mulah, sought the following orders:
 - a] That the cautions lodged over Titles Nos. Kajiado/Kisaju/4342 and Kajiado/Kisaju/4343 by Summer Lands Valley Developers Company Limited on 10th August 2010 be removed and/or lifted forthwith;
 - b] That the orders issued herein be served upon the Land Registrar, Kajiado County, for compliance;
 - c] That the costs of this application be provided for;
 - d] That the Honourable Court grants such further or other relief as it may deem fit in the circumstances of this case.



2. The application is supported by an affidavit of the Applicant detailing that the Applicant is the registered owner of original mother title Kajiado/Kisaju/2603, which was subsequently subdivided into two equal titles. The applicant and the interested party had executed a sale agreement in March 2010 but the purchaser failed to complete the transaction. The Applicant refunded the Interested Party the portion of the purchase price it had paid to him in August 2010 and received acknowledgment. Nevertheless, the purchaser lodged cautions over the two titles on 13th August 2010. Despite the refund being confirmed, the cautions remain on the spectrum. The Applicant has been in peaceful possession ever since and seeks removal of the cautions to restore his right to full enjoyment of the parcels of land.

Analysis and Determination

3. Section 71 of the *Land Registration Act*, No. 3 of 2012, permits a person with a contractual or equitable interest to lodge a caution forbidding registrations without notice to him/her. Section 73[1] of the same Act provides that a caution may be withdrawn by the cautioner or removed by order of the Court:

“ [1] A caution may be withdrawn by the cautioner or removed by order of the court or, subject to subsection [2], by order of the Registrar.”

4. The Court of Appeal in *Boyes v Gathure* [1969] EA 385 clarified that:

“...a caveat is intended to serve a twofold purpose: on the one hand, it is intended to give the caveator temporary protection, and on the other, it is intended to give notice of the nature of the claim to the person whose estate in the land is affected and to the world at large.”

Further, this court in *Gituma & another v Land Registrar, Nairobi Land Registry* [2024] KEELC 69 KLR, held:

“A caution as this Court has stated elsewhere is a temporary measure to enable the cautioner seek reliefs to protect his interest elsewhere, for example by way of a civil suit... It is not supposed to exist in perpetuity.”

5. The evidence placed before the court establishes that the contested cautions were lodged on 13th August 2010, more than fourteen years have elapsed without enforcement of any claim by the cautioner. The sale agreement was rescinded within days due to failure of completion; the full refund was acknowledged by the purchaser’s advocate shortly thereafter, and the original title documents were returned. The Applicant has remained in quiet and uninterrupted possession ever since. No action was taken by the cautioner to enforce the alleged claim in any court, despite the prolonged period and notice of rescission.
6. In the present case, the Applicant meets the threshold for relief sought; he has shown a prior cancelled sale transaction, a confirmed refund, continued possession, and absence of any claim by the cautioner. The caution has served no protective function and now burdens lawful dealings with the titles to the suit property. There is no evidence that the cautioner continues to assert any legitimate interest.
7. The Court thus finds that continuation of the cautions unjustifiably impairs the Applicant’s enjoyment of his property rights. This Court therefore sees no justification for maintaining the cautions on the title for more than fourteen years.
8. Accordingly, the Court finds that the application is merited and therefore makes the following orders:



1. The cautions lodged over Titles Nos Kajiado/Kisaju/4342 and Kajiado/Kisaju/4343 by Summer Lands Valley Developers Company Limited on 13th August 2010 are hereby removed and/or lifted forthwith.
 2. The Land Registrar, Kajiado County is directed to effect the removal forthwith.
 3. There shall be no orders as to costs.
9. It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 31ST DAY OF JULY 2025.

M.D. MWANGI

JUDGE

In the virtual presence of:

N/A by the parties

Court Assistant: Edwin

