



**Odhiambo MT Adala-Advocate v Shamgro Limited (Civil Case 607 of 2015)  
[2025] KEHC 15626 (KLR) (Commercial and Tax) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15626 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
CIVIL CASE 607 OF 2015  
F GIKONYO, J  
OCTOBER 30, 2025**

**BETWEEN**

**ODHIAMBO MT ADALA-ADVOCATE ..... PLAINTIFF**

**AND**

**SHAMGRO LIMITED ..... DEFENDANT**

**RULING**

1. The defendant/ applicant filed the notice of motion dated 17.2.2025, under Section 3A of the [Civil Procedure Act](#) and Order 40 Rule 6 and Rule 7 of the Civil Procedure Rules, seeking:-
  - a. Lifting of the prohibitory/restraining orders issued on 2<sup>nd</sup> March 2016 and 26<sup>th</sup> April 2016 restricting it from transferring, alienating, selling or disposing of L.R. No. 11540/2 (I.R. No. 10950).
  - b. Cancellation of the entries made by the Respondent on the inhibition section of L.R. No. 11540/2 (I.R. 109050) as entry no. 2 and 3.
2. The application is premised on the grounds set out in the application and the supporting affidavit sworn by Wangeci Akedi, Advocate.
3. The grounds are that:-
  1. The defendant learnt from the Judiciary's CTS portal that the subject suit was dismissed and closed vide orders issued on 12<sup>th</sup> May 2021 by the Hon. Claire Wanyama.
  2. Before the said suit was dismissed, this Court issued prohibitory orders dated 2<sup>nd</sup> March 2016 and 26<sup>th</sup> April 2016 restricting any transaction on the applicant's property known as L.R. No. 11540/2 (I.R. 109050).



3. In order to discharge the said prohibitory orders, the defendant requires an order of the court lifting the aforementioned restraining orders and the caution registered as a lien by the plaintiff on account of legal fees, which was the basis of the commercial suit.
4. The applicant had filed a miscellaneous application Misc. Application No. E988 of 2024 Kawakanja Limited v Odhiambo M.T. Adala - Advocate seeking reconstruction of the court file in this matter or creation of the temporary file for purposes of lifting the restraining order.
5. The miscellaneous application came before Justice A. Visram on 28<sup>th</sup> January 2025, when the court confirmed that the court file for HCCC 607 of 2015 is available at the registry.
6. The learned Judge directed that the miscellaneous application be mentioned before Justice N. Mwangi alongside HCCC 607 of 2015 for further directions.
7. The defendant was further directed to file the relevant application for lifting of the restraining orders in HCCC 607 of 2015.
8. That it is in the interest of justice for this Court to grant the orders sought.

### **Analysis and Determination**

4. The defendant exhibited copies of the title and an official search showing the caution and the court orders entries 2 and 3 in the inhibition section registered by the plaintiff on 20<sup>th</sup> September 2015 and 17<sup>th</sup> May 2016.
5. The defendant also exhibited a printed extract of the activities in the file from the CTS.
6. However, according to the record, on 20.4.2016 the court ordered that the matter be placed before the Deputy Registrar on 9.5.2016 for setting the terms and conditions of the sale.
7. But, on 9.5.2016, the respondent did not attend.
8. On 22.07.2016, the case was taken out and fixed for settlement of terms and conditions of sale on 11.8.2016.
9. On 18.8.2016, Hon. Nancy Kamau, DR allowed the sale of immovable property as per the terms and conditions in the notification of sale.
10. On 12.5.2021, judgment in default was entered by Hon. C. Wanyama.
11. The claim that the suit was dismissed on 12.5.2021 is not supported by the record.
12. The decree dated 3.3.2016 has not been reviewed, set aside or varied.
13. The upshot is that the application 17.2.2025 is not merited. It is therefore dismissed with no orders as to costs as there was no response. Nevertheless, the parties especially the plaintiff to update the court on the current position of this case for appropriate action to be taken by the court.

**DATED, SIGNED AND DELIVERED THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 30<sup>TH</sup> DAY OF OCTOBER, 2025.**

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**F. GIKONYO M**

**JUDGE**

In the presence of:



Kingori for Ms. Akedi for defendant

No appearance by plaintiff

CA Kinyua

