



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of the Late Marete Karaitu - Deceased (Succession Cause  
76 of 1994) [2025] KEHC 17200 (KLR) (20 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17200 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
SUCCESSION CAUSE 76 OF 1994**

**HM NYAGA, J**

**NOVEMBER 20, 2025**

**IN THE MATTER OF THE ESTATE OF THE LATE MARETE KARAITU – DECEASED**

**BETWEEN**

**CHABARI MARETE ..... PETITIONER**

**AND**

**GEORGE KINOTI CHARLES ..... INTERESTED PARTY**

**RULING**

1. The application for determination is the motion dated 4<sup>th</sup> July, 2025 which seeks the following orders:-
  - a. Spent.
  - b. The Prohibitory Orders registered against LR. No. Igoji/Kinoro/2378 be lifted forthwith to enable the implementation of the grant herein.
  - c. Costs for this application be in the cause.
  - d. The court be pleased to grant any order or such better orders which it may deem fit to grant in the circumstances.
2. The gist of the application is that a Prohibitory Order had been issued by the court in Meru CMCC. No. 832 of 1998 in favour of M’Ikiugu M’Ndegwa who had sought for the said order to enable him recover costs of the suit in question. That the Legal Representative of the estate of the said M’Ikiugu M’Ndegwa has confirmed that the costs due to his late father have been paid in full. That it is not possible to fully implement the grant herein while the said Prohibitory Orders subsist.
3. Silvana Kajuju swore an affidavit in response on 6<sup>th</sup> October, 2025. She described herself as the wife and personal representative of the deceased. She averred that the application is incompetent as the same should have been filed in the court that issued the order in question.



4. I have considered the application.
5. Although I am unable to understand the status of the said Silvanah Kajuju herein, I agree with her. The Prohibitory Order was issued by the Chief Magistrate's Court in execution of the decree in the matter before it, pursuant to the provisions of Order 22 Rule 48 of the Civil Procedure Rules, which provide as follows;

“48. Attachment of immovable property [Order 22, rule 48.]

- (1) Where the property to be attached is immovable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from taking any benefit from such purported transfer or charge, and the attachment shall be complete and effective upon registration of a copy of the prohibitory order or inhibition against the title to the property.”

6. Therefore, that order ought to be removed by the said court, and not this Succession Court. Had it been a Prohibitory Order issued at the instance of a beneficiary herein, then this court would have the requisite jurisdiction.
7. For the foregoing reason, I decline to grant the orders. There shall be no orders as to costs.

**DATED, SIGNED & DELIVERED AT MERU THIS 20<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**H. M. NYAGA**

**JUDGE**

