



REPUBLIC OF KENYA



**Babu v Njue & 6 others (Miscellaneous Succession Cause 8'B' of 2015)  
[2025] KEHC 17805 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17805 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT CHUKA  
MISCELLANEOUS SUCCESSION CAUSE 8'B' OF 2015**

**RL KORIR, J  
NOVEMBER 26, 2025**

**IN THE MATTER OF THE ESTATE OF JEREMY M'KANGA M'KIRIUNGA (DECEASED)**

**BETWEEN**

**KIT MURUGI BABU ..... APPLICANT**

**AND**

**PATRICIA CIAMBURA NJUE ..... 1<sup>ST</sup> RESPONDENT**

**TABITHA MWARI ..... 2<sup>ND</sup> RESPONDENT**

**LUCY GATAKAA ..... 3<sup>RD</sup> RESPONDENT**

**CATHERINE KARIMI ..... 4<sup>TH</sup> RESPONDENT**

**PRISCA KANINI ..... 5<sup>TH</sup> RESPONDENT**

**JOYCE GATUNE ..... 6<sup>TH</sup> RESPONDENT**

**MOSES MUNENE ..... 7<sup>TH</sup> RESPONDENT**

**RULING**

1. This ruling is in respect of the Application dated 24<sup>th</sup> January 2024 filed by the Applicant an Interested Party seeking the following: -
  - i. Spent
  - ii. That this honourable court be pleased to lift the inhibition issued on land parcel number Karingani/Ndagani/11153 and registered on the 17<sup>th</sup> December 2015.
  - iii. Spent
  - iv. That the cost of this Application be in cause.



2. The Application is founded on the grounds set out on its face and the Supporting affidavit of Kit Murugi Mbabu the Applicant. She deposed that land parcel number Karingani/Ndagani/11153 is registered jointly in her name, her husband's and son's name. that on 17<sup>th</sup> December 2015, the court issued an inhibition order in respect of Karingani/Ndagani/ 4064, 4065, 4446,11150, 11151, 11152 and 11153 pending the final hearing and determination of the Application dated 15<sup>th</sup> December 2015.
3. She stated that Karingani/Ndagani/11153 was one of the land parcels affected by the said inhibition order and it is in the interest of justice that the said inhibition order be lifted as no prejudice will be occasioned if the inhibition is lifted.
4. The Respondents filed grounds of opposition dated 14<sup>th</sup> February 2024 raised on the following grounds:-
  - i. The Grant of Letters of Administration giving rise to the subdivision of L.R No. Karingani/Ndagani/5467 into L.R Nos Karingani/Ndagani/11150,11151,11152 and 1153 was revoked by this court on 15<sup>th</sup> December 2015 and a fresh grant issued.
  - ii. Allowing the Application would be tantamount to the court validating a transaction that has been nullified by the law.
  - iii. The registration of Kit Murugi Mbabu, Lawrence Mwangi Maina and Victor Maina Mwangi as joint proprietors of L.R No. Karingani/Ndagani/11153 is no longer legally tenable owing to the revocation of the Grant of Letters of administration.
5. The Respondents prayed that the Application be dismissed with costs.

### **Brief Background**

6. In the present case, the inhibition was issued on 17<sup>th</sup> December 2015 to preserve the suit properties pending determination of the Application dated 15<sup>th</sup> December 2015 which sought the following orders: -
  - i. Spent
  - ii. That an order of inhibition do issue restraining registration of dealings in respect of LR. Nos. Karingani/Ndagani/4064, 4065, 4646, 4653, 11150, 11151, 11152 and 11153 pending the interpartes hearing of the Application.
  - iii. That an order of inhibition do issue restraining registration of dealings in respect of LR. Nos. Karingani/Ndagani/4064, 4065, 4646, 4653, 11150, 11151, 11152 and 11153 pending the hearing and determination of this application.
  - iv. That the certificate of confirmation of grant issued to the Respondent in Chuka P.M Succession No.77 of 2010 on 15<sup>th</sup> February 2012 be revoked and all the parcels of land involved do revert to the estate of the deceased for redistribution.
  - v. That the court do call for the lower court record in Chuka P.M Succession Cause No. 77 of 2010 for the hearing of this application.
  - vi. That the costs of the Application be provided for.
7. On 17<sup>th</sup> December 2015, F.M Gikonyo J, issued the following order: -



- i. That an order for inhibition do and is hereby issued restraining registration of dealings in respect of LR Nos. Karingani/Ndagani/4064, 4065, 4646, 4653, 11150, 11151, 11152 and 11153 pending the interparties hearing of the application.
  - ii. That Application be served upon the Respondent for interparties hearing on 5<sup>th</sup> January before Justice Mabeya.
8. On 11<sup>th</sup> February 2016, parties entered into a consent in the following terms: -
- i. The Grant issued to Patricia Ciamburia Njue and Certificate of Confirmation issued on 21<sup>st</sup> February 2012 be revoked.
  - ii. Fresh letters of administration intestate be issued in the name of Patricia Ciamburia Njue and Tabitha Mwari as joint administrators.
  - iii. The cause be mentioned on 15<sup>th</sup> March 2016 to confirm party's agreement to mode of distribution.
  - iv. Failure to agree each party file respective affidavit on mode of distribution and the matter be disposed by way of viva voce evidence.
  - v. The Application dated 15<sup>th</sup> December 2015 is marked as settled.
9. Consequently, a new Grant was issued on 4<sup>th</sup> April 2016. The first administratrix (Patricia Ciamburia Njue) applied for confirmation of grant vide summons dated 13<sup>th</sup> June 2017 proposing the mode of distribution. The 2<sup>nd</sup> Administratrix alongside Tabitha Mwari, Lucy Gatakaa, Catherine Karimi, Prisca Kanini, Joyce Gatune and Moses Munene filed a protest through the affidavit dated 28<sup>th</sup> September 2017 sworn by Tabitha Mwari.
10. The matter proceeded for hearing and judgment was delivered on 12<sup>th</sup> September 2018 and the Grant dated 4<sup>th</sup> April 2016 confirmed as follows: -
- i. Karingani/Ndagani/444- Moses Kibaarua Kaura
  - ii. Karingani/Ndagani/5965 - Reverend John Mbiiri.
  - iii. Karingani/Ndagani/ 4065- Catherine Karimi and Prisca Kanini jointly.
  - iv. Karingani Ndagani/4653: -
    - a. Patricia Ciamburia Njue to hold 0.55 ha in trust for James Mutegi, Caroline Kagendo Micheni, Morris Kibaara Kaura, Dave Gitonga Kaura and Doreen Kainyu Kaura in equal share.
    - b. 0.57 ha to be shared equally amongst; Lucy Gatakaa, Catherine Karimi, Joyce Gatune, Prisca Karimi, Tabitha Mwari, Michael Njue, Moses Munene Kaura
  - v. Karingani/Ndagani/4064 to be shared equally amongst; Lucy Gatakaa, Catherine Karimi, Joyce Gatune, Prisca Karimi, Tabitha Mwari, Michael Njue and Moses Munene Kaura.
  - vi. Karingani/Ndagani/5964 to be shared equally amongst; Lucy Gatakaa, Catherine Karimi, Joyce Gatune, Prisca Karimi, Tabitha Mwari, Michael Njue and Moses Munene Kaura.
  - vii. Karingani/Ndagani/5966 to be shared equally amongst; James Mutegi, Caroline Kagendo Micheni, Morris Kibaara Kaura, Dave Gitonga Kaura and Doreen Kainyu Kaura.



- viii. Karingani/Ndagani/5967 to be held for her benefit and life interest by Patricia Ciambura and in trust of all the children; James Mutegi, Caroline Kagendo Micheni, Morris Kibaara Kaura, Dave Gitonga Kaura, Doreen Kainyu Kaura Lucy Gatakaa, Catherine Karimi, Joyce Gatune, Prisca Karimi, Tabitha Mwari, Michael Njue and Moses Munene Kaura.
  - ix. Shares in Barclays bank Limited, Cooperative Bank Limited and Kenya Commercial Bank limited to Patricia Ciambura Njue.
11. Subsequently, the grant was confirmed and a Certificate of Rectification of Grant issued on 9<sup>th</sup> July 2020.

### **Submissions**

12. Having set out the background I now turn to the present Application. The Application was canvassed by way of written submissions. The Applicant filed written submissions dated 21<sup>st</sup> February 2024. She raised one issue for determination being whether the inhibition against land parcel L.R Karingani/Ndagani/11153 is still viable and sustainable.
13. The Respondents filed written submissions dated 3<sup>rd</sup> February 2025. They opposed the Application on the basis that the Grant that gave rise to the parcel of land was revoked on 15<sup>th</sup> December, 2015 and therefore to allow the Application would amount to a validation of a revoked grant.
14. From the pleadings and submissions, the sole issue for determination is whether the inhibition placed over L.R No. Karingani/Ndagani/11153 should be lifted.

### **Analysis and Determination**

15. The legal foundation for an inhibition is found in Section 68(1) of the [Land Registration Act](#), 2012, which provides:

“The Registrar may, on the application of any person interested in the land, lease or charge, or of his own motion, inhibit for a particular time, or until the occurrence of a particular event, or until the making of a further order, the registration of any dealing with the land, lease or charge.”

16. An inhibition is therefore a temporary restriction intended to preserve the status quo and protect an interest pending the resolution of a dispute. It is injunctive in nature.

17. In *Mwambeja Ranching Company Limited & another v Kenya National Capital Corporation Limited (Kenya) & 6 others* [2015] eKLR F Gikonyo Judge stated;

“Of great significance on the request for an order of inhibition is Section 68(1) of the [Land Registration Act](#) which reads as follows; The court may make an order (hereinafter referred to as an inhibition) inhibiting for a particular time, or until the occurrence of a particular event, or generally until a further order, the registration of any dealing with any land, lease or charge. The case of *Japhet Kaimenyi M’ndatho v M’ndatho M’mbwiria* [2012] eKLR dealt with the threshold for granting orders of inhibition in a pointed manner as follows;

I am content to refer to the decision by Okwengu, J (as she then was) in the case of *Philip Mwangi Githinji v Grace Wakarima Githinji* [2004] eKLR when she rendered herself inter alia; “An order of inhibition issued under section 128 of the Registered [Land Act](#) is akin to an order of prohibitory injunction for it restricts the registered owner and any other



person from having their transaction regarding the land in question registered against the title. Before the court can issue such an order it must be satisfied that the person moving the court for such orders has good grounds for requesting such an inhibition, such grounds would normally be in the form of a sustainable claim over the suit land.”

18. In the present matter, the inhibition placed over L.R No. Karingani/Ndagani/11153 on 17th December 2015 was intended to maintain the status quo or presentation of the estate pending resolution of the dispute arising from the December 2015 Application relating to the grant of letters of administration and redistribution of the estate properties.
19. The Applicant contends that she is a joint proprietor of L.R No. Karingani/Ndagani/11153 and seeks to lift the inhibition on the grounds that doing so will not occasion prejudice and is in the interest of justice. While the court recognizes that lifting an inhibition may be appropriate where no ongoing dispute exists, such relief is conditional upon the Applicant demonstrating a subsisting legal or equitable interest in the property. The Applicant relies solely on registration in her name, her husband’s, and son’s name.
20. The Respondents submit, and the record confirms, that the original Grant giving rise to the subdivision of L.R No. Karingani/Ndagani/5467 into several parcels, including 11153, was revoked and a fresh Grant was issued on 4<sup>th</sup> April 2016, following a Consent between the parties, which expressly marked the Application dated 17<sup>th</sup> December 2015 as settled.
21. The legal consequence of revocation of a Grant, is that any subdivision or registration arising from the revoked Grant ceases to have any legal effect. Therefore, any registration purporting to vest interest in the Applicant and her family post revocation cannot be sustained under the law.
22. Following the fresh Grant issued on 4<sup>th</sup> April 2016, the court confirmed the mode of distribution on 12th September 2018. This confirmed distribution does not recognize the Applicant as having any proprietary interest in L.R No. Karingani/Ndagani/11153.
23. I am persuaded by the case of *Omollo v Ongoro* [2023] KEHC 18999 (KLR) where Aburili J. held: -

“Therefore, although the sale and subdivisions were made after confirmation of the grant, that grant having been nullified and revoked on application by one of the bonafide beneficiaries, the respondent herein, on behalf of many other persons who were entitled to a share in the estate of the deceased, the revocation and grounds for such revocation had a spiral effect of nullifying the subdivisions and transfer of land which did not solely belong to the petitioners.”
24. It is clear from the above authority that the court cannot therefore, through subsequent orders, validate transactions that have been rendered void by prior judicial acts.
25. In *Macfoy v United Africa Co Ltd* [1961] 3 All ER 1169 it was stated as follows concerning an act that is void:

“If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse.”



26. Lifting the inhibition is contingent upon there being no ongoing dispute or risk of prejudice to other parties. In the present case, the relevant disputes relating to the grant, distribution, and ownership of estate properties have been conclusively resolved through consent, issuance of a fresh grant, and judicial confirmation. No evidence has been presented to suggest that the inhibition over L.R No. 11153 continues to serve any protective purpose for the Applicant.
27. Indeed, it has not been demonstrated to the court that such title was still in existence after the grant which birthed it had been revoked. Legally, once the title ceased to exist, the inhibition thereon would also have ceased to exist. Inhibition may prejudice the rightful beneficiaries under the confirmed distribution by potentially creating conflicting claims.
28. In the light of the foregoing analysis, it is my finding that: -
- i. The inhibition order over L.R No. Karingani/Ndagani/11153 was issued for a specific protective purpose which has since been rendered moot by the consent settlement of the Application dated 17<sup>th</sup> December 2015, issuance of a fresh Grant, and confirmation of distribution.
  - ii. The inhibition ought to have fallen with the title pursuant to the revoked grant and if it did not it can only be lifted to pave way for the implementation of the current confirmed Grant.
  - iii. The Applicant has not demonstrated any continuing legal or equitable interest in the parcel of if at all the parcel continues to exist after the revoked Grant.
  - iv. Lifting the inhibition would validate a registration and purported interest nullified by law, contrary to settled principles of justice, equity, and public policy;
29. In the end there is no basis for the court to exercise its discretion in favour of the Applicant. Allowing the Applicant's Application to lift the inhibition would have the effect of endorsing a registration rendered legally untenable by the subsequent confirmed grant and distribution.
30. The Application is dismissed. Each party to bear their own costs.
- Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 26<sup>TH</sup> DAY OF NOVEMBER, 2025.**

.....

**R. LAGAT-KORIR**

**JUDGE**

Ruling delivered in the presence of Mr. I.C Mugo for the Applicant; and Ms Musyimi holding brief for Mr. Mureithi for the Respondents. Muriuki (Court Assistant).

