



**Smith v Mugania (As the Administratrix of the Estate of Grace Kagwiria  
Mugania - Deceased) & another; Mweu (Interested Party) (Environment and  
Land Case E049 of 2023) [2025] KEELC 5745 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5745 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT AND LAND CASE E049 OF 2023**

**MD MWANGI, J  
JULY 30, 2025**

**BETWEEN**

**JASON CORBETT SMITH ..... PLAINTIFF**

**AND**

**FAITH MAKENA MUGANIA (AS THE ADMINISTRATRIX OF THE ESTATE OF  
GRACE KAGWIRIA MUGANIA - DECEASED) ..... 1<sup>ST</sup> RESPONDENT**

**MATHEW ITONGA T/A K. ITONGA & COMPANY  
ADVOCATES ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**ISAAC C MUNGAI MWEU ..... INTERESTED PARTY**

**RULING**

(In respect of the notice of motion dated 23<sup>rd</sup> May 2025 seeking for an inhibition order inhibiting dealings over the suit properties pending hearing and determination of the suit)

1. The application by the plaintiff is an interlocutory application seeking to inhibit dealings over the suit properties; all those parcels of land known as Kajiado/Olchoroonyore/8647, Kajiado/Olchoroonyore/20609, & KJD/Loodariak/8741 pending hearing and determination of the suit. It is premised on Section 68 (1) of the *Land Registration Act* that empowers the court to make such an order 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.
2. The purpose of an inhibition order is to preserve the property in question from acts that would otherwise render the suit nugatory; for example alienation or disposal, until the rights of the parties are determined. In this case, the suit property was in the name of the deceased at the time of filing the suit.



That has since changed. The Plaintiff expresses the fear that the suit properties may be farther alienated prejudicing his rights before the determination of this suit.

3. The court on 9<sup>th</sup> June 2025 granted the Defendants/Respondents 10 days to respond to the application. The Defendants did not however comply with the timelines. I note from the Case Tracking System (CTS) that the Defendants only filed their response on 24<sup>th</sup> July 2025, without leave and after the plaintiff had already filed his submissions on 16<sup>th</sup> July 2025. Admitting the reply by the Defendants would off course prejudice the Plaintiff/Applicant who will not have the opportunity to respond to the issues raised in the said replying affidavit. The court will therefore not consider the replying affidavit by the Defendants in making this determination neither the submissions filed alongside it for the foresaid reasons.
4. That said, the court considers it in the interests of justice to allow the Plaintiff's application to preserve the suit properties from further alienation pending the hearing and determination of the suit. The costs of the application shall be in the cause.

It is so ordered.

**DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 30<sup>TH</sup> DAY OF JULY 2025.**

**M.D. MWANGI**

**JUDGE**

In the virtual presence of:

Mr. Mutunga for the Plaintiff/Applicant

Mr. Kitheka for the Defendants/Respondents

Court Assistant: Edwin

