

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MURANG'A**  
**CIVIL SUIT NO. 2 OF 2023**  
**(FORMERLY NRB CC. E081 OF 2022)**

**SAMUEL  
MWANIKI.....PLAINTIFF/APPLICANT**

**MWANGI**

**VERSUS**

**DAVID  
MUCHUI.....DEFENDANT/RESPONDENT**

**MUIRURI**

**RULING**

- 1.This ruling is in respect to the applicant's Notice of Motion dated 16<sup>th</sup> July, 2025. Prayers I and II of the Motion are now spent, and what is now pending this court's determination are prayers for an order do and is hereby issued inhibiting the registration of any dealings on title numbers LR No. Loc 5/Gitura/1168, Loc 5/Kagumoini/1643 and Loc 5/Kagumoini/2393 until the hearing and determination of the substantive suit and costs of the application.
- 2.The application is anchored on the grounds stated on the face of the Motion and in the depositions made in the supporting affidavit sworn by the applicant, Samuel Mwangi Mwaniki, on 16<sup>th</sup> July, 2025.
- 3.In brief, the applicant alleges that the respondent, David Muirui Muchui, has been obtaining loans using the properties of their company, in total disregard of the pendency of these proceedings, which challenge his authority to bind the company; and further that the respondent has embarked on a spree of dissipating and devaluing the assets of Mwanda Investment Company Limited.

4. The applicant also alleges that the respondent has moved to sell the suit land to a third party, who has in turn attempted to transfer the same to himself. He contends that unless an order of inhibition is issued inhibiting dealings on land parcels LR No. Loc 5/Gitura/1168, Loc 5/Kagumoini/1643 and Loc 5/Kagumoini/2393, the company would have lost all its assets by the time the trial runs its full cycle.
5. The application was opposed by the respondent, vide a replying affidavit sworn by the respondent, David Muiruri Muchui, on 1<sup>st</sup> August, 2025. In the affidavit, the respondent deposed that the applicant's application is based on falsehood, is misleading and is a disguised attempt to unfairly obtain injunction orders from this court.
6. He contends that he has not dissipated any assets belonging to the company and that the plaintiff has not adduced any evidence to demonstrate that any assets have been dissipated, nor produced any valuation report to show that the company's assets have been undervalued.
7. The respondent deposes that, of the three parcels of land owned by the company, none of the title deeds is in his custody. He further avers that land parcels Loc. 5/Kagumoini/1643 and Loc. 5/Kagumoini/2392 are charged to Equity Bank as security for a loan which he and the applicant jointly obtained for the purchase of the said properties, before the applicant allegedly abandoned the company and resigned as a director.
8. The respondent contends that he and the applicant subsequently topped up the loan secured by the said parcels of land to upgrade their business. However, when the business declined and was on the verge of collapse, the applicant allegedly lost hope, resigned from the directorship,

and has since not made any effort to inquire about the affairs of the company over the last six years.

9. He further deposes that, if the orders sought by the plaintiff are granted, they will curtail his ability to obtain financing from financial institutions to run the company. He contends that such orders may also trigger panic among the existing lenders, who may demand immediate repayment of the outstanding loan balance in a lump sum, which he asserts he may be unable to meet, thereby likely leading to the collapse of the company.
10. By consent of the parties, this court on 23<sup>rd</sup> September, 2025, directed that the application be canvassed by the written submissions.
11. On my part, I have duly considered the application, the affidavit in response and the rival written submissions filed by parties. Having done so, I find that the main issue arising for determination is whether the applicant should be granted the orders sought.
12. That said, the applicant in this case has sought for an order of inhibition under Section 68 of the Land Registration Act, in respect of land parcels LR No. Loc 5/Gitura/1168, Loc 5/Kagumoini/1643 and Loc 5/Kagumoini/2393.
13. **Section 68(1) of the Land Registration Act** provides 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.***

14. Further, the court in **Dorcas Muthoni & 2 others v Michael Ileri Ngari [2016] KEHC 6213 (KLR)** stated as follows regarding an order of inhibition:

***“An order of inhibition issued under Section 68 of the Land Registration Act is similar to an order of prohibitory injunction which bars the registered owner of property under dispute from registering any transaction over the said property until further orders or until the suit in which the said property is a subject is disposed off. The Court issuing such an order must be satisfied that the applicant has good grounds to warrant the issuance of such an order because, like an interlocutory injunction, such an order preserves the property in dispute pending trial.”***

15. In the present case, the principal reason advanced by the applicant for seeking orders of inhibition in respect of the suit properties is that the respondent has allegedly been obtaining loans using the said properties, in total disregard of the pendency of the suit before the court. The applicant further alleges that the respondent has moved to sell one of the suit parcels of land to a third party, who has attempted to transfer the same to himself.

16. Whereas the applicant has not adduced documentary evidence demonstrating that the respondent has in fact obtained loans using the suit parcels of land, or that he has sold one of the suit parcels to a third party, the respondent has not expressly denied those allegations.

17. Indeed, in his replying affidavit, the respondent avers that if the orders sought by the applicant are granted, he will be curtailed from obtaining financing from financial institutions to run the company. It may therefore reasonably be inferred that the respondent intends to obtain financing for the

company either by selling the suit parcels of land or by using them as security for loans.

18. Given that an order of inhibition is intended to preserve the suit property pending the hearing and determination of the dispute, the court is satisfied that the applicant has established sufficient grounds for the grant of the orders sought.

19. Flowing from the foregoing, I find that the present application has merit. ***I hereby grant the applicant prayer 3 of his Motion in the following terms:***

***i. That an order do and is hereby issued inhibiting the registration of any dealings on title numbers LR No. Loc 5/Gitura/1168, Loc 5/Kagumoini/1643 and Loc 5/Kagumoini/2393 until the hearing and determination of the substantive suit;***

***ii. Costs of the application shall be in the cause.***

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 12<sup>TH</sup> DAY OF MARCH, 2026.**

**HON. T. W. Ouya  
JUDGE**

**For Plaintiff/Applicant.....Ms Khisa**

**For Defendant/Respondent.....Nanjala HB Mr Omari**

**COURT ASSISTANT.....Brian**