



**Githae v Zablon (Environment and Land Case 8 of 2022)
[2026] KEELC 2552 (KLR) (22 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2552 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
ENVIRONMENT AND LAND CASE 8 OF 2022
LN MBUGUA, J
APRIL 22, 2026
(FORMERLY NYERI ENVIRONMENT & LAND COURT CASE NO. 549 OF 2014)
(FORMERLY NYERI HIGH COURT CIVIL CASE NO. 179 OF 2008)**

BETWEEN

PATRICK NGUMI GITHAE PLAINTIFF

AND

DUNCAN NGARE ZABLON DEFENDANT

RULING

1. Before me is a notice of motion application dated 14.5.2025 filed by the defendant, Duncan Ngare Zablon seeking orders that the Land Registrar Nanyuki be ordered to remove the restriction imposed on parcel Nanyuki/marura Block 8/63 (Nturukuma). He avers that judgment was delivered in this matter on 1.3.2023 and no appeal was lodged, thus the restriction should be removed so that the applicant can proceed to enjoy his land.
2. In opposition thereof, the plaintiff filed a replying affidavit dated 25.2.2026 where it is argued that the application was filed by an advocate who is not properly on record post judgment., adding that the court is functus officio in the matter as the application relates to a new cause of action.
3. I have considered the rival arguments as well as the record. This suit was filed in Nyeri High Court as Civil case no. 179 of 2020 (OS) on 16.12.2010. One of the supporting documents to the Originating Summons was the certificate of search which contains the following information at entry no 4 on the part of restrictions in relation to the suit property;

“ 14. 6. 2011- Restriction; No dealings until Nyeri H.C.C.C No. 179 of 2010 is finalized”



4. The import of that entry is that the restriction automatically lapsed upon the finalization of the suit vide the judgment delivered on 1.3.2023. Thus, the question as to whether the applicant has capacity to bring the application is moot, since even on its own motion, the court is obligated to set the record straight.
5. Further, the provisions of Section 34 (1) of the Civil Procedure Act stipulate that;

“All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the court executing the decree and not by a separate suit”.
6. The restriction was lodged during the subsistence of the suit, it was to last until the said suit was finalized and this has been achieved. It follows that the issue of the removal of the restriction does not amount to a new cause of action. The court has an obligation to effectuate the contents of entry no.4 in the title. In the circumstances, I find that the application dated 14.5.2025 is merited, the same is hereby allowed in terms of prayer 2 in the application with costs to the applicant.

DATED, SIGNED AND DELIVERED AT NANYUKI THIS 22ND DAY OF APRIL 2026 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

M/s Njuguna h/b for Wahome Gikonyo for Plaintiff

N/A for Defendant

CA Nancy Mwangi

