



**Kiraithe v Ireri (Sued as the personal representative of the Estate of M'Chabari Kiraithe)) (Civil Case E191 of 2001) [2026] KEHC 5925 (KLR) (28 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5925 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CIVIL CASE E191 OF 2001**

**HM NYAGA, J**

**APRIL 28, 2026**

**BETWEEN**

**BENJAMIN NJERU KIRAITHE ..... PLAINTIFF**

**AND**

**SALOME KATHOMI IRERI (SUED AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF M'CHABARI KIRAITHE)) ..... DEFENDANT**

**RULING**

1. Coming for determination is the application dated 14/02/2025 which seeks the following orders:
  - a. Spent
  - b. Spent
  - c. Spent
  - d. That the honourable court be pleased to review and set aside its orders dated 29<sup>th</sup> October 2001 that directed an order of inhibition be placed against land parcels No.s Mwimbi/Murugi/2368, 2369,2370 and 2371.
  - e. That the honourable court be pleased to issue an order directing the Land Registrar Meru South District to lift the inhibition placed against land parcels No.s Mwimbi/Murugi/2368, 2369,2370 and 2371 placed by order of the court dated 29<sup>th</sup> October 2001 and allow any transfer, dealings and/or marking in the land register in respect of the said parcels.
2. The application is supported by the grounds set out on its face and the applicant's affidavit sworn on even date.
3. In a nutshell, it is the applicant's case that this suit was instituted against M'Chabari Kiraithe in 2001. That the suit abated on account of the death of the defendant. That the plaintiff's application dated



8/7/2005 to review the said suit was dismissed by the court vide its ruling delivered on 30/1/2026. That the plaintiff sought to review the suit again vide an application dated 22/1/2006 but the same was dismissed by the court on 5/11/2009.

4. The applicant further avers that the plaintiff had vide an application dated 11/10/2001 sought inhibitory orders against Land Parcel No. Mwimbi/Murugi 2368,2369, 2370 and 2371 which were granted by the court vide an order dated 29/10/2001.
5. The applicant thus seeks that the said inhibitory orders be lifted.
6. The applicant is the administrator of the estate of the defendant now deceased as exhibited by the grant of letters of administration issued by the Chuka Chief Magistrate's Court in Succession Cause No. E054 of 2023. She therefore has the locus standi to bring this application.
7. This suit was instituted in 2001, prior to the promulgation of *the Constitution* 2010 and the creation of the Environment and Land Court (ELC) under Article 162 (2) (b) thereof.
8. This case was essentially determined by this court, prior to the creation of the Environment and Land Court.
9. Section 30 of the Environment and Court Act provides for the transitional provisions.
10. Pursuant to the said provisions the Hon. The Chief Justice issued practice directions vide Gazette Notice No. 5178 of 28/7/2014.  
The practice directions are silent on a situation such as the present one.
11. The question to be answered is whether the court has jurisdiction to handle the application in light of the creation of the ELC.
12. Looking at the application, the applicant is basically saying that having found that the suit abated, then the inhibition orders died with the suit.
13. In my view, this court ought to look at the matter at hand. If it involves a question dealing with the subject matter, then the correct position is to have the matter be handled by the ELC. If on the other hand it is a mere procedural issue, then notwithstanding the creation of the ELC, the court can deal with the issue. Such a scenario includes for instance, taxation of costs.
14. The present application is basically seeking to have the orders issued by this court pending the determination of the suit be discharged.
15. This suit was determined albeit by way of abatement. Therefore, there is nothing in terms of substantive issues left to determine.
16. As such, I find this court has jurisdiction to deal with orders not touching on the substantive issues.
17. Having stated so, I find that the orders issued by this court on 29/10/2001 died a natural death when the suit abated. As such they ceased to exist the minute the suit abated.
18. In such circumstances, I allow the application in terms of prayer 5 of the application.
19. There shall be no orders as to costs.

**DATED, SIGNED AND DELIVERED AT MERU THIS 28<sup>TH</sup> DAY OF APRIL 2026.**

.....  
**H. M. NYAGA**



**JUDGE**

