

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAJIADO

ELCEPMISC APPLICATION NO. E002 OF 2026

**IN THE MATTER OF SECTION 78 OF THE LAND REGISTRATION ACT, NO 3 OF
2012.**

JEBIWOTT SUMBEIYWO APPLICANT

VERSUS

DISTRICT LAND REGISTRAR, KAJIADORESPONDENT

RULING

(In respect of the Chamber Summons dated 8th April 2026 seeking orders for the removal of restrictions on the Applicant's titles)

Introduction

1. This ruling is in respect of the Chamber Summons dated 8th April 2026 by the Applicant seeking orders for the removal of restrictions on his titles for parcels of land known as Kajiado/Kaputei Central/1234 and 4002 placed way back on 18th December 2019. This application is premised on the grounds on the face of it and the supporting affidavit of Jebiwott Sumbeiywo sworn at Ngong on 8th April 2026.
2. The Applicant is the registered proprietor of the parcels of land known as Kajiado/Kaputei Central/1234 & Kajiado/Kaputei Central/4002 as per the copies of the titles attached to the supporting affidavit and marked 'JS1' & 'JS2' respectively.
3. Further, the Kajiado High Court succession cause no.62 of 2016 (In the matter of the Estate of Mutae Ene Nkoitiko Lenaiya) from which the order of restriction supposedly originated from has since been withdrawn. A perusal of the proceedings attached does not disclose that the succession court ever issued the orders of restriction.
4. This court has consistently held that a caution/caveat/restriction is a temporary measure to enable the caveator seek reliefs to protect his/her interests in the land elsewhere e.g.

before a court of law in a civil case. It is not supposed to exist in perpetuity. The Court of Appeal in ***Boyes-vs-Gathure (1969) E.A 385***, affirmed that a caution/caveat is intended to serve two purposes; on the one hand it is intended to give the caveator/cautioner temporary protection, and on the other hand it is intended to give notice of the nature of the claim to the person whose estate in the land is affected and to the world at large.

Determination

5. In this case, the restrictions were lodged way back on 18th December 2019; over 6 years ago. There is no justification whatsoever why they should be maintained on the Applicant's titles.
 6. Ideally, the restrictions should be lifted by the court that issued the order. In this case, though the restrictions are expressed to have been lodged pursuant to orders issued in Kajiado High Court Succession Cause no. 62 of 2016, the proceedings from the case discloses that no such orders were ever issued in that case.
 7. Consequently, the restrictions were lodged without the sanction of the court. It was a misrepresentation on the part of the caveator.
 8. The court therefore allows the application herein and directs the Land Registrar, Kajiado to remove the restrictions entered against the Title numbers Kajiado Kaputei Central/1234 and Kajiado Kaputei Central/4002 forthwith.
 9. The court makes no orders as to costs.
- Ordered accordingly.

Dated, Signed and Delivered Virtually this 7th Day of May, 2026.

M.D. MWANGI
JUDGE

In the virtual presence of:

N/A by the Parties

Court Assistant: Alex

M.D. MWANGI
JUDGE

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