

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MALINDI

ELCLC NO. E230 OF 2018

JUMA ABITOYA BAYA & ANOTHER & ANOTHER
PLAINTIFFS

VERSUS

KARSAN RAMJI & SONS LTD & 3 OTHERS
DEFENDANTS

RULING

1. The application dated 5th March 2026 seeks an order that the inhibition and/or restriction registered against the property known as **Kilifi/Kawala Kadzonzo/399** be vacated, removed and/or cancelled by the Land Registrar Kilifi, and also that the Registrar do issue a certificate of official search confirming that the said inhibition and/or restriction has been vacated/removed and cancelled. The application is supported by the affidavit of **Kishorkumar Dhanji Varsani**, also dated 5th March 2026.
2. The application is premised on the grounds that the time stated in the said inhibition has expired since the suit mentioned in the inhibition entry has been concluded and judgment delivered.
3. The application is opposed by the plaintiffs through the affidavit of the first plaintiff, **Juma Abitoya Baya**, dated 19th March 2026, in which he depones as follows: that the restriction was meant to preserve the suit property pending the hearing and determination of the dispute; judgment was delivered but he is dissatisfied with the judgment and he has filed an appeal against the whole decision, and if the restriction is lifted at this stage, the applicant will be at liberty

to deal with the suit property including by selling, transferring and/or charging it to third parties and such dealings would render their bill nugatory as the property may pass window therefore defeating his claim.

4. The application was disposed of by way of written submissions. The first defendant filed submissions dated 17th March 2026 while the plaintiff's submissions are dated 15th April 2026. I have carefully read and considered those submissions.

ANALYSIS AND DETERMINATION

5. This court has noted that the application before it is not an application for stay of execution filed by the plaintiff; that is what would have granted strength to the grounds raised by the plaintiffs. The application was filed by the 1st defendant. It is correct that the event stipulated in the inhibition recorded in the Land Register as condition precedent to the removal of the inhibition has already taken place since the present suit has been concluded and final orders issued in the judgment.
6. Consequently, there is no justification for maintaining the said inhibition and or restriction on the suit title owned by a private citizen while there is no suit pending. I therefore allow the application dated 5th March 2026 in terms of **prayer nos. 2 and 3** thereof.
7. The costs of the application shall be borne by the plaintiffs who unsuccessfully opposed the same.

**Dated, signed and delivered at Malindi on this 13th May
2026.**

A rectangular box containing a handwritten signature in blue ink, which appears to read 'Mwangi Njoroge'.

**MWANGI NJOROGE
JUDGE, ELC MALINDI.**