



**Mugambi v Mugambi (Environment and Land Miscellaneous Application  
E003 of 2023) [2024] KEELC 445 (KLR) (31 January 2024) (Ruling)**

Neutral citation: [2024] KEELC 445 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E003 OF 2023  
CK NZILI, J  
JANUARY 31, 2024**

**BETWEEN**

**JAMES NKUMBU MUGAMBI ..... APPLICANT**

**AND**

**KENDI DOREEN MUGAMBI ..... RESPONDENT**

**RULING**

1. The court is asked to direct the Land Registrar Imenti Central to lift a restriction or caution placed over L.R No. Abothuguchi/Igane/3146 by the respondent. The grounds are set out on the face of the application and a supporting affidavit of James Nkumbu Mugambi, sworn on August 24, 2023.
2. It is averred that the applicant acquired the land through transmission per a confirmed grant attached as annexure J.N.M. "1". The applicant avers a recent official search shows that the respondent, who is his blood sister, had placed a caution on it after the applicant divorced his wife to forestall any land disposal at the expense of his children.
3. It is further averred that following succession proceedings and the grant dated June 16, 2008, he acquired L.R No. Abothuguchi/Igane/3146 while the respondent acquired the mother's share.
4. The applicant says he sold part of his land to maintain his children as per a sale agreement annexed as J.N.M "3," which portion he is duty-bound to transfer to the purchaser.
5. Similarly, the applicant avers the respondent has no interest on his portion for she has never disputed the confirmed grant. When the matter came for inter-partes hearing on October 3, 2023, the court directed that the application be served upon the Land Registrar Imenti Central, who appeared before the court on October 26, 2023. She indicated that she was not opposed to the lifting of the caution or restriction despite service with the application and the filing of affidavits of service on 26.10.2023. The respondent did not oppose the application.



6. Section 78 of the [Land Registration Act](#) provides that upon application by a proprietor affected by a restriction and upon notice to the registrar, the court may order a restriction to be removed or varied. Further, section 76 (1) of the [Land Registration Act](#) grants a land registrar powers to stop any dealings over a title to land where there is a sufficient cause, with or without the application of any person interested in the land.
7. A copy of the search is attached as J.N.M. "2" showing the applicant has acquired the title deed from March 3, 2021. It appears that on November 3, 2022, a caution was placed on the title by the respondents claiming beneficial interest. Further, the annexure marked J.N.M. "1" shows L.R No. Abothuguchi/376 was decreed to the applicant and three others in shares of 1 acre each. A copy of the records for L.R No. Abothuguchi/Igane/376 or L.R No. Abothuguchi/Igane/3146 was availed to the court to show the nexus between the two parcels of land.
8. The respondents' name is missing, as one of the immediate beneficiaries of L.R. No. Abothuguchi/Igane/3716 or its resultant sub-divisions.
9. As an absolute owner of L.R No, Abothuguchi/Igane/3146, the applicant is entitled to all his rights under article 40 of the [Constitution](#) as read together with sections 24, 25, 26, and 28 of the [Land Registration Act](#). The respondents have not justified why the applicant's rights described above should be impended or curtailed for an indefinite period. See [David Macharia Kinyuru v District Land Registrar Naivasha & another](#) (2017) eKLR, the land registrar has also indicated that the orders sought are merited. Consequently, I direct that the caution or restriction appearing on the title be lifted forthwith. There will be no order as to costs.

**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU ON THIS 31<sup>ST</sup> DAY OF JANUARY 2024**

**In presence of**

C.A Kananu/Mukami

Miss Kaimenyi for Mugambi for applicant

**HON. CK NZILI**

**JUDGE**

