



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**ELC CASE NO. 14 OF 2006**

**KARUTHU MAGIRI alias MARY MAGIRI**

*(Suing as the administratrix of the estate of )*

**M'MAGIRI M'ANAMPIU.....PLAINTIFF/RESPONDENT**

**VERSUS**

**JOHN KABURU MAGIRI.....1<sup>ST</sup> DEFENDANT/APPLICANT**

**SETTLEMENT FUNDS TRUSTEE..... 2<sup>ND</sup> DEFENDANT**

**M'RUTERE M'NGUTHARI..... 3<sup>RD</sup> DEFENDANT**

**FLORENCE MUTHONI ABIRA CHARLES.. 4<sup>TH</sup> DEFENDANT**

**RULING**

1. In the application of 11.2.2016, applicant/defendant is seeking orders for the removal or lifting of an inhibition against L.R No. Ntirimiti/Settlement/1056 and 1057. The basis upon which this application is brought is that the suit is concluded as the same was dismissed on 12.11.2015.
2. The application is opposed on grounds that defendant has no authority to swear the affidavit as required by the law. It is also averred that applicant has not annexed any affidavit and that there is nothing to show that the suit was dismissed. Finally respondent avers that there is nothing to indicate that there is an inhibition on the suit land.
3. A perused of the court's records reveals that this suit was dismissed vide the court's ruling of 12.11.2015. It matters not that there is no decree extracted. The fact remains that there is no suit.
4. Should the inhibitions be lifted? Are there any such inhibitions in place?. I have again perused the record and I have come across a ruling of Judge Lenaola (as he then was) dated 3.5.2006. The present plaintiff had sought orders of inhibition and injunction, but they were not granted. Nevertheless inhibitions were still lodged thereafter pending the determination of civil case no. 14 of 2006. It follows that such inhibitions should not be subsisting when there is no pending case.
5. The application of 11.2.2016 is allowed with costs to defendant/applicant.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 18<sup>TH</sup> DAY OF JULY, 2018 IN THE PRESENCE OF:-**

**Court Assistant:** Janet/Galgalo

Kirimi for Kiautha Arithi for plaintiff

Gikunda for defendant

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**