



**Chemenei & 4 others v Rono & another (Environment & Land Case E007 of 2023) [2024] KEELC 1753 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEELC 1753 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE E007 OF 2023**

**A OMBWAYO, J**

**APRIL 11, 2024**

**BETWEEN**

**NANCY CHEMUTAI CHEMENEI ..... 1<sup>ST</sup> APPLICANT**  
**SOFIA CHERONO NGENO ..... 2<sup>ND</sup> APPLICANT**  
**BRIAN CHERUIYOT NGENO ..... 3<sup>RD</sup> APPLICANT**  
**KEVIN KIPKOECH ..... 4<sup>TH</sup> APPLICANT**  
**ALLAN KIPKORIR ..... 5<sup>TH</sup> APPLICANT**

**AND**

**BENJAMIN KIPLANGAT RONO ..... 1<sup>ST</sup> RESPONDENT**  
**JUSTUS KIPKOECH RONO ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The applicants have come to court for orders that the caution registered against land parcel number Shawa/Gicheha Block 2/28 (the suit property) on 29/1/2021 by Justus Kipkoech Rono and Wesley Kimutai Arap Rono be and is hereby lifted. Moreover, that the inhibition order issued by the honorable court on 25/9/2023 and registered against land parcel no. Shawa/gicheha Block2/28 be and is hereby canceled.

The costs of this application be in the cause.

2. The application is supported by the affidavit of Nancy Chemutai Chemenei and on grounds that this matter proceeded ex-parte on 4<sup>th</sup> December 2023. The honorable court delivered a judgment on 7<sup>TH</sup> December 2023. A decree was subsequently issued on 2/2/2024. The court ordered that the 1<sup>st</sup> applicant be registered as the proprietor in trust of the suit property. The Respondents have not appealed against the said judgment and/or filed an application to set aside.



3. The registration of the I<sup>st</sup> applicant is impossible given that there is a caution registered against the property on 29<sup>th</sup> January 2021 by the Respondents herein. The caution was registered against the suit property before the decree of this court caution is not a subsequent event. Further, there exists an inhibition order registered against the property and which order was issued by this court on 25<sup>th</sup> September 2023. There is a need therefore, that the encumbrances on the title be lifted to allow smooth implementation of the judgment and subsequent decree of the court.
4. I have considered the application and the evidence on record. This court has fully determined the matter but there is a caution on the registration of the suit land.

Section 70 of the [Land Registration Act](#) provides:



70.	<p>Cancellation of inhibition</p> <p>The registration of an inhibition shall not be cancelled except in the following cases—</p>	
(a)	<p>on the expiration of the time stated in the inhibition;</p>	
(b)	<p>on proof to the satisfaction of the Registrar of the occurrence of an event stated in the inhibition;</p>	
(c)	<p>on the land, lease or charge being sold by a charge, unless such sale is itself inhibited; or</p>	
(d)	<p>by a consequent order of</p>	



		the court.
(a)	on the expiration of the time stated in the inhibition;	
(b)	on proof to the satisfaction of the Registrar of the occurrence of an event stated in the inhibition;	
(c)	on the land, lease or charge being sold by a charge, unless such sale is itself inhibited; or	
(d)	by a consequent order of the court.	

Section 73 (1) provides :-

73.	Withdrawal and removal of caution	
	(1)	A caution may be withdrawn by the cautioner or removed by order of the court or, subject to subsection (2), by order of the Registrar.
(1)	A caution may be withdrawn by the cautioner or removed by order of the court or, subject to subsection (2), by order of the Registrar.	

5. I do find that the suit and the application were not opposed or defended. I do grant orders that the caution registered against land parcel number Shawa/Gicheha Block 2/28 (the suit property) on 29/1/2021 by Justus Kipkoech Rono and Wesley Kimutai Arap Rono be and is hereby lifted. The inhibition order issued by the honorable court on 25/9/2023 and registered against land parcel no. Shawa/gicheha Block2/28 be and is hereby canceled.

6. The costs of this application to the applicant. Orders accordingly.

**DATED SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 11<sup>TH</sup> DAY OF APRIL 2024.**

**A. O. OMBWAYO**  
**JUDGE**

