



**Mbui v Geoffrey Muthuri (Deceased) Thro Aileen Kinya Muthuri (Environment and Land Appeal E053 of 2023) [2024] KEELC 4093 (KLR) (15 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4093 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT AND LAND APPEAL E053 OF 2023**

**CK NZILI, J**

**MAY 15, 2024**

**BETWEEN**

**PAUL MURIUKI MBUI ..... APPELLANT**

**AND**

**GEOFFREY MUTHURI (DECEASED) THRO AILEEN KINYA  
MUTHURI ..... RESPONDENT**

**RULING**

1. The court asked to issue an inhibition against L.R No. Ntima/Igoki/5542, pending the hearing and determination of this appeal on the ground that the respondent is in the process of transferring the land to herself and possibly third parties with a view of defeating the appeal. In support of the application, the appellant swore an affidavit dated 6.2.2024, attaching a copy of an order dated 10.1.2024, issued by the trial court directed at the Land Registrar Meru, to transfer the land to the respondent as an administrator of the estate of her husband the late Geoffrey Muthuri.
2. The application is opposed through a replying affidavit by Aileen Kinya Muthuri sworn on 16.2.2024. She denies the alleged intention to dispose of the land to third parties and terms the application as an attempt to circumvent the ruling dated 6.12.2023, declining any stay orders. The respondent avers the suit land was in the name of the appellant although inhibited, as per a copy of the official search attached as annexure AKM “2”. It is averred that the applicant is being dishonest and coming to court not only in bad faith but also as a means to abuse the court process. Reliance was placed on Gachacha & another v Gachacha & another [2017] eKLR.
3. On 6.12.2023, this court declined to stay the execution in LDT No. 4 of 2008. The court, however, granted leave to the appellant to file an appeal out of time, which he did on 19.12.2023. The court pronounced itself on whether or not to stay the decree based on the principles of inordinate delay, substantial loss or damage, security, and whether it was in the interest of justice to grant the order.



4. Inhibition is in the nature of a prohibitory injunction. A party seeking it must meet the threshold as set out in *Giela v Cassman Brown* [1973] (E.A 358. Such orders are granted by the court under Section 68 of the [Land Registration Act](#) until the occurrence of a thing or event. See [Mwambeja Ranching Company Ltd & another vs Kenya National Capital Corporation Ltd & others](#) (2015) eKLR.
5. In [Japhet Kiamenyi M'Ndatho v M'Ndatho M'Bwiria](#) [2012] eKLR, the conditions to meet were set as a demonstration that the property is at the risk of being disposed of or alienated to the detriment of the applicant, the refusal to grant the orders would render the appeal or suit nugatory and that the suit or appeal is arguable.
6. Inhibition orders seek to preserve the substratum of a suit or an appeal. In [Elly Jepkoech Limo v Susan Wangoi Kibe & another](#) [2020] eKLR, the court cited Embu ELC No. 324 of 2015, [Dorcas Muthoni & others v Michael Ireri Ngari](#) [2016] eKLR, that the applicant must show reasonable grounds to warrant such an order at an interlocutory stage. The court cited *Films Rover International and others v Cannon Film Sales Ltd* [1986] 3 ALL ER 772, that the court should take the course that carries the lower risk of injustice.
7. In this application, the respondent has attached an official search dated 6.9.2023 for L.R No. Ntima/Igoki/5542 under the name of the applicant and which has an inhibition order dated 18.6.1998 in Meru CMC No. 717 of 1995, until its finalization. The order attached to the supporting affidavit by the application dated 10.1.2024 was issued in Meru CMC LDT No. 4 of 2008. It is not clear if Meru CMC No. 717 of 1995 was finalized for the inhibition orders issued therein to be termed as spent.
8. A party seeking an inhibition order must do more than merely allege prejudice, substantial loss, or nugatory aspect. The applicant failed to disclose the earlier unsuccessful request for a stay of execution. Nothing has been attached to demonstrate that the court ought to review its earlier orders refusing a stay. The suit land is in the name of the applicant, and therefore, it beats logic why an inhibition order should be issued on top of another which is yet to be lifted.
9. The upshot is that I find no merits in the application. Parties to canvass the appeal by way of written submissions mention to confirm compliance on 3.6.2024.

Orders accordingly.

**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU  
ON THIS 15TH DAY OF MAY, 2024**

In presence of

C.A Kananu

Mawira for C.P Mbaaabu for respondent

Mugambi for Mutunga for the appellant

**HON. C K NZILI**

**JUDGE**

