



**Gituma v Land Registrar Meru Central & another (Miscellaneous Application  
E023 of 2024) [2024] KEELC 5550 (KLR) (17 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5550 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
MISCELLANEOUS APPLICATION E023 OF 2024**

**CK NZILI, J  
JULY 17, 2024**

**BETWEEN**

**KENNEDY GICHUNGE GITUMA ..... APPLICANT**

**AND**

**LAND REGISTRAR MERU CENTRAL ..... 1<sup>ST</sup> RESPONDENT**

**HON ATTORNEY GENERAL ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The court is asked to lift and withdraw a prohibition order registered on 23.10.1979 over LR No Abothuguchi/Gaitu/363 in respect to Civil Suit No 289 of 1979. The reasons are that the applicant, who is the administrator of the estate of his late father, Colenetio Gituma, discovered an encumbrance by an unknown person to the family. As a result, the grant issued in Githongo SPM Succession Cause No 170 of 2023 cannot be implemented. He seeks the court to declare the prohibition time-barred by virtue of Section 4 (4) of the *Limitation of Actions Act*.
2. Further, the applicant says his late father passed on on 25.11.2005 and the file was destroyed vide gazette number 949 of 1.2.2019. He attached the grant, official search, death certificate and a gazette notice as annexures marked KGG “1” – 4” respectively.
3. This court has jurisdiction to lift any orders of inhibition or restriction under Section 68 of the *Land Registration Act* after the occurrence of an event or expiry of a period after which the lifetime of the order in the first instance. The court may also lift an inhibition if it has outlived its purpose or is no longer tenable. In this application, the prohibitory order was issued in D.M.’s Civil Suit Number 289 of 1979, gazette notice attached as KGG 4 related to HCCC & HCA record for 1968 – 1994, and civil cases as the lower court for 1988 Eldama Ravine.



4. There is no evidence that the Deputy Registrar of this court has confirmed that DMCC No 287 of 1979 was among the files destroyed. A copy of the court register showing the outcome of the case is not attached.
5. The court may not be in a position to confirm whether there was a decree or judgment for computation of 12 years in order to declare the decree or order stale.
6. The land registrar has not issued the notice to whoever registered the caution or restriction, for it is not possible to register one without a corresponding entry in the register for the restrictions which must have details and contacts of the cautioner. The land registrar cannot shift goalposts and fail to exercise its mandate by issuing the notice. I find no merits in the application. It is dismissed with no order as to costs.

**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS OPEN COURT AT MERU ON THIS 17<sup>TH</sup> DAY OF JULY, 2024**

In presence of

C.A Kananu/Mukami

Applicant in person

**HON. C K NZILI**

**JUDGE**

