



In re Presumption of Death of Mugo Njoroge (Family Miscellaneous Application 2 of 2018) [2023] KEHC 19251 (KLR) (29 June 2023) (Ruling)

Neutral citation: [2023] KEHC 19251 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
FAMILY MISCELLANEOUS APPLICATION 2 OF 2018
GL NZIOKA, J
JUNE 29, 2023
IN THE MATTER OF PRESUMPTION OF DEATH OF MUGO NJOROGE**

**IN THE MATTER OF
MARGARET WANJERI MUGO APPLICANT**

RULING

1. By a notice of motion application dated 4th June 2023, the applicant is seeking for orders that one Mugo Njoroge be presumed dead. The application is based on the grounds on the face of it and the affidavit of the applicant of the even date.
2. She avers that, the subject Njoroge is her husband. That she was married to him under Kikuyu customary marriage and lived together as husband and wife. That the subject left matrimonial home at Kamuyu village, Hell's Gate location within Nakuru County on 19th August 2008 and did not return. That the matter was reported to Longonot Police Station and a police abstract issued.
3. That ever since no family member has ever seen the subject and a search conducted in all hospital has not been successful. Similarly, all efforts by the police has not yielded any fruits. Hence, the need to presume him dead after the period of nine years.
4. The applicant annexed to the affidavit a police abstract issued on 18th August 2008. However, after considering the application the court ordered the applicant to advertise the missing person in daily newspaper of national circulation either in the Nation Daily Newspaper or Standard Daily Newspaper. Subsequently, the applicant informed the court on 18th September 2018 that, she had placed the advert as directed by the court. The court noted the advertisement in the Daily Nation Newspaper of 9th August 2018 at page 43 and allowed the application. The applicant was ordered to file a copy of the identity card.



5. On 27th September 2018, the applicant was allowed time and authority to obtain records from the Registrar of Births and Death and file in court. That was not done and for reason not on record, the applicant did not comply with the court order. The matter remained dormant.
6. On 8th December 2022, the matter was listed and a notice to show cause issued. On the 19th December 2022, the notice to show cause was re-issued. On 16th March 2023, the applicants lawyer appeared before the court and without knowledge, prosecuted the application afresh and indicated that additional affidavit had been filed.
7. On a mistaken belief the applicant was still alive, the court ordered that, the applicant file a letter from the chief and results of investigation of the report made to the police. Pursuant thereto, a further affidavit was filed on 14th May 2023, attaching the documents requested for.
8. Based on the aforesaid it is evident that all proceedings in relation to the application after 18th September 2018, when the application was allowed are not valid. The same is consequently vacated. The matter is marked as finalized. The applicant to comply with the order issued on filing of the documents from the Registrar of Birth and death as ordered. That should be done within 7 days of the date of this order and the Hon. Deputy Registrar to ensure compliance. Otherwise this old file is marked as closed.

DATED, DELIVERED AND SIGNED ON 29TH DAY OF JUNE 2023.

GRACE L. NZIOKA

JUDGE

