



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

MISC. CIVIL APPLICATION NO. 72 OF 2016

IN THE MATTER OF PRESEPTION OF DEATH

IN THE MATTER OF NYAGA KAMWANA - (DECEASED)

JACINTA WANGIRI NYAGA.....APPLICANT

VERSUS

EMBU COUNTY REGISTRAR OF PERSONS....RESPONDENT

R U L I N G

1. This is a ruling on an application dated 18/03/2018 seeking for orders that the Embu County Registrar of Persons be hereby ordered to issue a death certificate in respect of one Nyaga Kamwana.
2. The Registrar of Persons is named as the respondent herein. He was informally served with the application by leaving a copy in his office.
3. The grounds supporting this application are that the applicant is the biological daughter of the said Nyaga Kamwana who disappeared from home without trace in 1991. The applicant in an application dated 11/05/2016 brought under Section 118A of the Births and Deaths Registration Act Cap. 149 obtained an order of presumption of death in the ruling of Bwonwonga, J. delivered on 6/07/2016.
4. Section 118A provides:-

“...where it is proved that a person has not been seen or heard of for several years....”

5. The applicant seems to have overlooked including the prayer in this application in her earlier application dated 21/07/2016. Had the prayer been included, the judge who found that application merited would have in the same breath granted the prayer to be issued with the death certificate by the respondent.
6. In view of the outcome of the first application and on the grounds supporting this application, I find this application merited.
7. It is hereby allowed with no order as to costs.
8. It is hereby so ordered.

DATED, DELIVERED AND SIGNED THIS 18TH DAY OF JUNE, 2018.

F. MUCHEMI

JUDGE

In the presence of:-

The Applicant

5 Relatives named in the record