

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

MISC. APPLICATION NO. 34 OF 2010

AND IN THE MATTER OF

SECTION 118A EVIDENCE ACT CAP. 80 LAWS OF KENYA

JOYCE WANJIRUAPPLICANT

VERSUS

DAVID KARIUKI WAWERURESPONDENT

J U D G M E N T

1. The applicant herein applied for David Kariuki Waweru to be presumed dead. She testified that he has not been seen or heard from him since 1982, a period of 31 years. She stated that she was registered in 1975 as joint proprietor with him of GATURI/GITHIMU/2434. She avers that the respondent was friend of her husband, Stanley Warua Kanyonyo, who passed away in 1992.
2. The Chief Embu Municipality location has confirmed that respondent was last seen in Dallas/Stadium Sub-location in 1982 and he has tried to locate his whereabouts without any success.
3. This suit was also advertised in the Standard newspaper on 1st April 2014 and no response has been forthcoming. The applicant testified that she has constructed a permanent building on the land which the respondent is a co-owner. In all probability he would have or those close to him would have laid claim to the land or inquired about the building.
4. I am satisfied that the same David Kariuki Waweru has not been seen or heard from by persons who would have been in association with him or known him. I therefore declare that David Kariuki Waweru, the joint owner of GATURI/GITHIMU/2434, shall be presumed dead from the date of this judgment.

DATED AND DELIVERED AT EMBU THIS 28TH DAY OF APRIL 2014

D.S. MAJANJA

J U D G E