

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

MISC. APPEAL NO. 62 OF 2012

IN THE MATTER OF AN APPLICATION BY ESTHER ONGOLA ONYANGO

RULING

1. The Chamber Summons dated 15th May 2012 seeks a declaration that Ennos Shikanda Openda is dead. He is said to be missing since 2001.
2. To support the application, the applicant, Esther Ongola Onyango, has filed an affidavit sworn on 15th May 2012. She avers that she was the customary law wife of the said Mr. Openda, and has attached documents as proof of the marriage. There is also an abstract from the police records of the Soweto Police Station, Nairobi, which indicate a report was made to the police on 28th September 2011 to the effect that Mr. Openda has been missing since 2001.
3. I am not satisfied that I can make the order sought on the basis of the material before me. Virtually all residents of Nairobi have a rural connection. Mr. Openda must have traced his ancestry to some place in Luhya land. No indication has been given to me that he is not at his rural home.
4. Before I make final orders on the matter I direct the applicant to obtain a letter from the Chief of the Location in the rural area that Mr. Openda hailed from.
5. This matter should thereafter be placed before me for further orders/directions.

DATED, SIGNED and DELIVERED at NAIROBI this 25th DAY OF April, 2014.

W MUSYOKA

JUDGE

No appearance for the applicants.