

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Misc. Appli. 332 of 2007

IN THE MATTER OF AN APPLICATION FOR A DECLARATION OF PRESUMPTION OF DEATH

AGNES WAIRIMU GOKO.....APPLICANT

RULING

Agnes Wairimu Goko in her ex-parte Notice of Motion dated 30th May 2007 is praying for orders

“THAT the Honourable Court be pleased to declare and presume dead, one Joseph Goko Karari, the Applicant’s Husband who has disappeared and had not been heard of continuously for the last NINE(9) YEARS.

THAT the Applicant be allowed to apply for a Death Certificate for the said Joseph Goko Karari.”

The application is based upon grounds stated on the face to the effect that the said Joseph Goko Karari is a husband to the Applicant married under Kikuyu Customary Law in 1966 and that he was a Prison Warder at Industrial Area G.K. Prison as Ex-warden Service No.6323/677012416 and a Kenyan citizen; that sometime on 14th June 1998 he disappeared mysteriously while on duty at the Industrial Area Remand Prison or G.K. prison and has not been traced to date; that despite numerous efforts by the Applicant and other family members as well as colleagues at his place of work and the police and friends the said Joseph Goko Karari has never been heard of continuously for the last nine years; and that it has now become desirable that he be presumed dead as he has disappeared for more than seven continuous years as provided by the law.

Those grounds are supported by in the affidavit deposed by the said Agnes Wairimu Goko on 30th May 2007 in which she adds that they lived in Limuru area and that the date of the disappearance by Joseph Goko Karari, was on or about 14th day of June 1998 while on duty at the Industrial Area Remand Prison.

In her evidence the Applicant gave details of the efforts she made with relatives, friends, and even the Hon. Mr. Paul Muite, to trace the said Joseph Goko Karari without success.

Other people who gave evidence before me to support the Applicant’s application herein were Ngigi Kiguru who said was an elder brother of Joseph Goko Karari and therefore brother in law of the Applicant; and also Peter Karari Goko who said was one of the children of the Applicant and Joseph Goko Karari. He said he was the eldest son out of three sons. He came to give evidence in this Court accompanied by his follower brother James Njuguna Goko who was present with their four sisters Salome Njeri, Mary Nyambura, Njeri Mukomi and Felista Wanjiku all supporting their mother’s application.

I should add that in addition to the supporting affidavit dated 30th May 2007, the Applicant filed a further affidavit dated 20th February 2008 attaching the annexures mentioned in her affidavit dated 30th May 2007 as the same had been inadvertently not attached.

I have carefully considered the Application dated 30th May 2007 and being satisfied, I do hereby grant that application as prayed.

Dated and Delivered at Nairobi this 7th day of March 2008.

J. M. KHAMONI

JUDGE