

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Misc Civ Appli 246 of 2004

IN THE MATTER OF JACKSON KIPKURUI CHEBII

AND

IN THE MATTER OF KABON TAPTUEI CHEPKOCHOCHAPPLICANT

RULING

I have considered the Notice of Motion brought under Order 50 rule 1 of the Civil Procedure Rules and Section 118A of the Evidence Act (Cap.80) and the two supporting affidavits by Margaret Chebii and Kabon Taptuei Chepkochoch a sister and mother respectively of Jackson Kipkurui Chebii. I have also considered the submissions of counsel for the applicant Kabon Taptuei Chepkochoch.

The police abstract of a missing person mentioned in paragraph 9 of the affidavit of Margaret Chebii is not annexed to the affidavit. Nor have particulars been given in paragraph 10 of the said affidavit on the modes of public announcements that have been made on the disappearance of the said Jackson Kipkurui Chebii.

In those circumstances, I am not able to declare that Jackson Kipkurui Chebii be presumed as dead. Therefore, I allow a further affidavit to be filed to address the above issues, before I can make a ruling on the request by the applicant. The matter is marked as stood over generally.

Dated at Eldoret this 1st Day of March 2005

George Dulu

Ag. Judge

In the Presence of:

Mrs. Mutai holding brief for Mrs. Kittony for Applicant