



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MISCELLANEOUS CIVIL APPLICATION NUMBER 20 OF 2018

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

AND

IN THE MATTER OF THE EVIDENCE ACT CAP 80 SECTION 118A

LEAH WAMBUKU MATENJWA.....APPLICANT

RULING

1. The notice of motion before court is dated 9/11/2018. The orders sought are;

- a. **THAT** this Honourable Court be pleased to order and or presume Peter Njoroge Matenjwa as dead by virtue of not having been seen or heard for continuously 14 years to whose who ordinarily would have heard of him and he been alive.
- b. **THAT** this Honourable Court be pleased to order that the parcel of land title number LR No. KIJABE/KIJABE BLOCK 1/5548 which belongs to Peter Njoroge Matenjwa be registered in the names of LEAH WAMBUKU MATENJWA to enable her deal with the same; and
- c. **THAT** Peter Njoroge Matenjwa's properties in Maai Mahiu be vested to LEAH WAMBUKU MATENJWA, the remaining beneficiary.
- d. **THAT** the costs of this application be in the cause.

2. The application is premised on grounds;

1. **THAT** Peter Njoroge Matenjwa has not been seen or heard of continuously for fourteen (14) years and his whereabouts are unknown.
2. **THAT** the Local Administration was informed and a search was embarked on but in vain.
3. **THAT** he was a son of LEAH Wambuku Matenjwa and the late James Matenjwa Njoroge.
4. **THAT** he was not married or had children at the time of disappearance.
5. **THAT** the disappearance had been reported at Maai Mahiu Police Station under OB No. 12/15/11/2008.
6. **THAT** the lost son had some properties in Maai Mahiu and which properties are going to waste as there is no one to take care of them.
7. **THAT** the lost son was the owner of land registration number title L.R. No. KIJABE/KIJABE BLOCK 1/5548.
8. **THAT** it is only prudent that this Honourable Court be pleased to order and or presume Peter Njoroge Matenjwa as dead and to allow the mother/applicant deal with his properties.

3. It is supported by the affidavit of Leah Wambui Matenjwa, the mother to the subject, Peter Njoroge Matenjwa.

4. In a nutshell, the applicants' case is that the subject disappeared and has not been seen or heard of continuously for 14 years and his whereabouts are unknown.
5. Evidence of a report to police and confirmation by the local administration (chief and assistant chief) are tendered in evidence.
6. It is urged that at the time of such disappearance, the subject was not married and had no children.
7. I have applied my mind to the application and the affidavit evidence. I am satisfied that the subject disappeared over 14 years ago and has not been seen or heard of since by those who would ordinarily be in contact with him. He was not married and had no children so Leah Wambuku Matenjwa the mother is the only surviving beneficiary, there being evidence that the father, James Matenjwa Njoroge, is deceased.
8. Accordingly, I find merit in the notice of motion dated 9/11/2018 and allow the same in terms of prayers (a), (b) and (c). The costs shall be in the cause.

Orders accordingly.

Dated and Signed at Nakuru this 3rd day of April, 2019.

A. K. NDUNG'U

JUDGE