



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC. APPLICATION NO. 120 OF 2013

**IN THE MATTER OF AN APPLICATION FOR AN ORDER OF PRESUMPTION OF DEATH
OF MOHAMED ABDALLA**

ABDI AHMED ABDI ALSO KNOWN AS

ABDI AHMED ABDI KAWIR.....APPLICANT

RULING

1. The Summons before me is dated 21st November 2013. It is brought under Section 118A and 119 of the Evidence Act Chapter 80 Laws of Kenya, Section 47 of the Law of Succession Act, Chapter 160 Laws of Kenya and Rule 10 of the Probate and Administration rules Chapter 160 laws of Kenya. In the main the court is called upon to issue orders that Mohamed Abdalla is dead and that accordingly, a death certificate be issued. Further that the Applicant Abdi Ahmed Abdi a.k.a Abdi Ahmed Abdi Kawir be granted leave to petition the court for a grant of letters of Administration in respect of the Estate of Mohammed Abdalla and costs be in the cause.
2. The application is grounded upon the affidavit of the Applicant sworn on 21st November 2013. In the said affidavit the Applicant depones that Mohamed Abdalla was married to his sister Fatuma Ahmed Kawir who is now deceased. That Mohamed Abdalla was engaged in transport business within East Africa and in particular in Uganda and because of his travels and commitments, he donated a general Power of Attorney to the Applicant to deal with his affairs in Kenya. The said Power of Attorney is dated 16th February 1976 and was registered in the land Titles Registry as No. IPA 16787/1 – A copy is annexed here-unto.
3. The Applicant also depones that since 1976 he has been looking after Mohamed Abdalla's property land reference No. 36/11/194 Eastleigh and the title documents thereto are with A. H. Malik & Co Advocates who at the material time were acting for Mohamed Abdalla. That Mohammed Abdalla had four adult sons as set out below:
 1. Willy Mohamed Abdalla
 2. Abdisalam Mohamed Abdalla
 3. Abdi Nasir Mohamed Abdalla
 4. Abdi Hakim Mohamed Abdalla

From the affidavit Mohamed Abdalla appears to have disappeared without trace in 1977. At the time of filing this application in 2013 no one had seen or heard from Mohamed Abdalla in thirty six years. That all enquiries by his relatives and the efforts to locate him have been futile. A copy of the notice published on 30th September 2013 in the Standard Newspaper and a copy of the letter

from the area chief confirming that Ahamed Abdala was a subject of his jurisdiction are attached.

4. Since the children of the deceased are now adults and are beneficiaries of his estate, I direct as follows:

1. That the said beneficiaries be served with this application.
2. That the children do file affidavits with regard to the two prayers sought by the applicant.
3. That the beneficiaries do attend court on a date to be issued in court on the date of the ruling.

It is so ordered.

SIGNED DATED and DELIVERED in open court this **12th day of November 2014.**

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L. A. ACHODE

JUDGE