

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAKURU**  
**FAMILY MISC. APPLICATION NO. E033 OF 2025**

**IN THE MATTER OF AN APPLICATION FOR PRESUMPTION OF  
DEATH OF ALFRED CHERUIYOT KOSKEI (SUBJECT)**

**BY**

**JACQLYNE KANGOGO ROTICH.....APPLICANT**

**RULING**

1. By an Originating Summons dated 23<sup>rd</sup> July, 2025 brought under Section 118A of the Evidence Act and Rule 11 of the Probate and Administration Rules, the Applicant seeks the following orders:-
  - 1) ***THAT Alfred Cheruiyot Koskei be presumed dead.***
  - 2) ***THAT the Registrar of Death do issue a Certificate of Death in respect of Alfred Cheruiyot Koskei.***
  - 3) ***THAT costs of the application be in the cause.***
2. Based on the grounds on the face of the application and the Supporting Affidavit sworn on 23<sup>rd</sup> July, 2025, the Applicant states that she got married to Alfred Cheruiyot Koskei (Subject ) under the Marriage Act 2014 and they were blessed with three children namely:- Juliet Chepkurui Cheruiyot, Ivy Chepkorir Cheruiyot and Abigael Cherotich Cheruiyot.
3. The Applicant and the Subject established a matrimonial home in Kiamunyi location Nakuru and that the subject worked with Geothermal Development Corporation at Nakuru Office. However, he went missing on 6<sup>th</sup> May 2016 and has never been traced to date.
4. Consequently, the said disappearance was reported at Nakuru Central Police Station on 8<sup>th</sup> May , 2016 and communication made to his employer on 11<sup>th</sup> August, 2016. An OB No. 34/8/5/2016 was issued to the Applicant herein.

5. An inquiry file No. 6 of 2016 was opened to that effect by the Directorate of Criminal Investigations Nakuru but there has been no outcome of the investigations carried out as neither the Subject nor his body has been traced.
6. Further, the Applicant states that together with the extended family, they advertised the disappearance through Citizen Radio but he has not been traced Nine (9) years since his disappearance.
7. When she attended this Court for hearing, the Applicant told the Court that the Subject has never contacted his nuclear or extended family. He has never contacted his employer either. She therefore urged this Court to allow her application.

**Determination**

8. The only issue for determination, is whether Subject herein should be presumed dead. The circumstances under which this Court can make such a presume are set out in Section 118A of the Evidence Act as follows:-

***“Where it is proved that a person has not been heard of for seven years by those who might be expected to have heard of him if he were alive, there shall be a rebuttable presumption that he is dead.”***
9. The material before this Court shows that the Subject disappeared on 6<sup>th</sup> June, 2016 and has not been seen or heard of by his nuclear or extended family or even his employer.
10. Investigations by Directorate of Criminal Investigations in regard to the disappearance and the advertisement through the Media done by the Subject’s family , the Subject has never been traced.
11. This Court is therefore satisfied that the Applicant has met the threshold set out under Section 118A of the Evidence Act to warrant a presumption that the Subject herein is dead and therefore, that prayer is allowed.
12. Having made a declaration of a presumption of death in this case, then by operation of law, the Registrar should therefore proceed and register the

subject's death. Consequently, the application dated 23<sup>rd</sup> July , 2025 is allowed as follows:-

- 1. An order be and is hereby issued by this Court presuming that Alfred Cheruiyot Koskei is dead.**
- 2. The Registrar of Births and Deaths be and is hereby ordered to issue a Certificate of Death in respect of the said Alfred Cheruiyot Koskei (deceased).**
- 3. The Applicant to bear her own costs.**

**Dated, signed and delivered at Nakuru this 2<sup>nd</sup> Day of March, 2026.**

**PATRICIA GICHOHI  
JUDGE**

**In the presence of:**

**Mr. Langat for the Applicant  
Erickson , Court Assistant**