

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

RAPHAEL WANJOHI MURAGURI

APPLICANT

RULING

1. Raphael Wanjohi Muraguri deponed that his father, Joseph Muraguri Kamwaro, disappeared on 15.12.2014. It is averred that, despite concerted efforts by family members to trace him, those efforts have been unsuccessful. At the time of his disappearance, Joseph Muraguri Kamwaro was 77 years old. The disappearance was duly reported to the police and recorded under OB Number 4/15/12/2014.
2. A Copy of the OB Number 4/15/12/2014 was annexed as RWM2. A letter from the chief of Kabari Location confirms the same. There was a radio announcement on Inooro Radio Station. There was a subsequent announcement on 29/9/2025 at Inooro FM, but the deceased has not been seen.
3. I have considered the application, annextures and the supporting affidavit. It is recalled that the matter is governed by Section 118A of the Evidence Act, which provides 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.

4. The period of 12 years is a long period not to be seen by the relatives. If alive, the deceased could be 89 years old. The said Joseph Muraguri Kamwaro was a registered owner of land parcel number Nyeri/Island farms/1139. He had not been seen on the said land or by family members who are expected to see him.
5. Family members of Joseph Muraguri Kamwaro have not seen him. The family members have not seen Joseph Muraguri Kamwaro. The local administration, through the chief, are aware of the disappearance. I am satisfied that the application is merited. Therefore, I allow the same.

Determination

6. In the circumstances, I make the following orders:
 - a) Joseph Muraguri Kamwaro is hereby presumed dead.
 - b) Registrar of deaths and births to issue a death certificate accordingly.
 - c) The file is closed.

DELIVERED, DATED and SIGNED at NYERI, on this 23rd day of February, 2026. Ex Tempore Ruling delivered physically in open court.

KIZITO MAGARE
JUDGE

In the presence of: -

Ms. Muthoni for the Applicant

Applicant present

Court Assistant - Michael