



REPUBLIC OF KENYA



In re Priscillar Nyambura Githeru (Missing Person) (Miscellaneous Civil Application E109 of 2024) [2025] KEHC 8012 (KLR) (Civ) (29 May 2025) (Judgment)

Neutral citation: [2025] KEHC 8012 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
MISCELLANEOUS CIVIL APPLICATION E109 OF 2024**

SN RIECHI, J

MAY 29, 2025

IN THE MATTER OF

LEA NJERI GITHERI 1ST APPLICANT

ANNTONET WAMBUI NYAMBURA 2ND APPLICANT

JOHN KARURU WILLIAM 3RD APPLICANT

JUDGMENT

1. The applicant Lea Njeri Githeri, Anntonet Wambui Nyambura and John Karuru William have filed an application dated 31st May 2024 filed pursuant to Section 1A & 1B & 3A C.P.A, and Section 118A of the Evidence Act seeking orders;
 1. That Priscillar Nyambura Githeru be hereby presumed dead.
 2. That this Honourable court do order the Registrar of Births and Deaths to issue a Death Certificate in respect of Priscillar Nyambura Githeru
 3. That this Honourable Court be pleased to issue such further direction and orders as may be necessary to give effect to the orders sought.
 4. That the costs of this Application be in the cause.
2. The application is based on the grounds on face of it that the missing person had disappeared for many years, a report had been made and she has not been found. That at the time of her disappearance she was not married and had only one daughter. That despite efforts to trace her she is yet to be found.
3. The application is further supported by a supporting affidavit of Anntonet Wambui Nyambura sworn on 31st May 2024. The applicant briefly deponed that she is daughter to Priscillar Nyambura Gither as shown in her birth certificate and copy of Identity Card annexed to the application. She deponed



- that Priscillar Nyambura Githeru disappeared from their home in Buruburu Phase I on/or about 22nd December 2007.th December 2007.
4. She deponed that they have tried to trace and/or locate her to no avail and she now believe that she disappeared without a trace and cannot be found.
 5. She deponed further that they made efforts of trying to trace her through reporting the matter at Buruburu Police station on 25
 6. The application is also supported by affidavit of Lea Njeri Githeri who briefly deponed she is sister in law to the missing person. She deponed that Priscillar Nyambura Githeru disappeared on 22nd December,2007 from her home in Buruburu Phase 1. She deponed further that she reported her disappearance at Buruburu Police Station on or about 25th December 2007 and was issued with an O.B. which eventually got lost as evidenced by attached to the application a copy of affidavit asserting to the lost O.B. She stated she has tried to trace the O.B. Number in vain and she believes the same to be irretrievably and completely lost and misplaced.
 7. She averred that upon her disappearance she took in her daughter, Anntonet Wambui Nyambura and lived with her as her own child. She averred further that she tried to trace and/or locate her to no avail and she now believe that Priscillar Nyambura Githeru disappeared without a trace and cannot be found.
 8. The application is further supported by the affidavit of John Karuru William who reiterated averments in the affidavit of Lea Njeri Githeri.
 9. The applicant Anntonet Wambui Nyambura filed a further affidavit sworn on 4th February 2025. She deponed that on 8th January 2025 they made a casual announcement through Royal Media Services, capturing the sentiments raised in their application. She annexed to the affidavit a receipt, the message and the loose translation message marked AWN 1,2 and 3 in support.
 10. The application was heard by way of viva voce evidence virtually. John Karuru William testified that he is 70 years old. He testified the Priscilla Nyambura is her younger sister. She was not married. She was staying in Kahawa West. She was a businesswoman. She was doing clothes business. She had one child Anntonete. She was staying with her daughter. He testified in 2008 he was told by Anntonete that she went missing. They reported at Buruburu Police Station. She had a house in Buruburu. They started looking for her in Police Station and City Mortuary and Kahawa Hospital. He informed the CID Headquarter who took over their matter. They were issued with OB which is with the Advocate. He testified further that there was political unrest in 2008 and they could not find her.
 11. He testified that that the CID put a picture in Gazette. She has been missing for 10 years. He testified he took over the upkeep of daughter and her property in Buruburu.
 12. Anntonet Wambui Nyambura testified that she knows the subject. She was her mother. She was not married. She had her as the only child. She testified she is 32 years old. She testified that she wants orders to process her death certificate to enable them do succession to her property. She testified further that in 2008 she went missing. She was staying in Buruburu Phase 1 House No.2015. She testified that they were staying together. It was in Dec 2008. She testified that subject left in the morning going to get her hair done. She did not come back that day. She did not come. The next day she went and told her Uncle. They searched for her and they have never seen her. She stated started living with his Uncle John Karuru. When she became an adult, she moved out. Her uncle now allowed her to manage the property directly.



13. I have considered the application, the affidavits on record and all the annexures thereto. The law governing the circumstances in which a person may be presumed dead is set out in Section 118A of the Evidence Act which states 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.”

14. In this case, the 1st applicant who is the subject’s daughter, 2nd applicant who is subject’s sister in law and 3rd applicant who is subject’s brother are people expected to see or hear from the subject almost on a daily basis or every so often have confirmed that they have not heard or seen the subject since 22nd December, 2007. It is also confirmed from annexures to the affidavit filed by the applicants also reported her disappearance to BuruBuru Police Station but they have explained to this court through an affidavit and oral evidence that they lost the OB Number and they have been unable to trace it. The applicants have also placed an announcement for the disappearance of the subject in a local newspaper through Royal Media Services Limited on 8th January, 2025 as evidence by a copy of receipt, the message and loose translation message attached to the further affidavit sworn on 4th February, 2025.
15. In view of the foregoing, I am satisfied that the applicants have demonstrated by credible and reliable evidence that the subject disappeared on or about 22nd December, 2007 and she has to date not been in touch with her close family members. This means that the subject has been missing for the last about 17 years and all efforts to trace her whereabouts have been unsuccessful.
16. If the subject was alive, it is expected that she would have attempted to contact at least members of her nuclear family which she has not done to date. All the persons who would have heard of her whereabouts have not heard from her for 17 years, which is more than 7 years stipulated.
17. I therefore find that the applicants have demonstrated grounds upon which the court will grant orders sought.

I therefore order;

1. That Priscillar Nyambura Githeru is hereby presumed dead.
2. That the date of her death is presumed to be 22nd December, 2007.
3. The registrar of Birth and Death is directed to enter the presumption of death in the Register of Death.
4. That the registrar to issue a Certificate of Presumption of death.

DATED AT NAIROBI THIS 29TH DAY OF MAY 2025

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S.N.RIECHI
JUDGE.

