

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(FAMILY DIVISION)**

MISCELLANEOUS CAUSE NO. 005 OF 2022

**IN THE MATTER OF AN APPLICATION FOR AN ORDER OF
PRESUMPTION OF THE DEATH OF DENNIS MURINDWA (MISSING
PERSON SINCE 2002) PURSUANT TO THE REGISTRATION OF
PERSONS ACT NO. 4 OF 2015**

AND

**IN THE MATTER OF THE FAMILY OF DENNIS MURINDWA (MISSING
PERSON SINCE 2002)**

AND

**IN THE MATTER OF AN APPLICATION BY DOREEN KENTE
MURINDWA (WIFE) FOR AN ORDER OF PRESUMPTION OF THE
DEATH OF DENNIS MURINDWA (MISSING PERSON SINCE 2002)**

BEFORE: HON. LADY JUSTICE ALICE KOMUHANGI KHAUKHA

RULING

Introduction

This ruling is in respect of an *ex parte* application brought under section 47 (2) of the Registration of Persons Act No. 4 of 2015, section 98 of the Civil Procedure Act, Cap. 71, section 33 of the Judicature Act Cap. 13 and Order 52 Rules 1 & 3 of the Civil Procedure Rules S.I No. 71-1 for Orders that;

- (a) DENNIS MURINDWA, a former resident of Corporation Road, Ntinda Ministers Village Nakawa Division be declared presumed dead, having not been seen or heard of since the 10th of May, 2002; and
- (b) Costs be in the cause.

Appearance and Representation

When the matter came up for hearing, the applicant, Doreen Kente Murindwa was represented by Counsel Joshua Ahabwe. The applicant was present in Court when the matter came up for hearing on 23rd March 2022 and she testified on oath.

The application

The application is supported by the affidavit of Doreen Kente Murindwa (hereinafter referred to as the **applicant**). The grounds of the application as contained in the application and the affidavit can be summarized as follows:

The applicant is the wife of a one Dennis Murindwa (hereinafter referred to as the **missing person**) having got married on 21st September 1996 at Emmanuel Cathedral, Kinyasano North Kigezi Diocese in Rukungiri District. The missing person is said to have last been seen by the applicant on or around the **10th day of May 2002** whom she told that he was going to see a doctor. However, from the said date and/or time he has never returned to his home in Ntinda, Ministers Village. All efforts to trace him since the said date have been futile.

At the time of his disappearance, Dennis Murindwa had begat two issues with the applicant to wit; Ayamba Joshua Besigye now aged 23 years and Joel Mwesigwa Beingana now aged 22 years. He also left several properties in his name to which no appointment of a legal representative has been made in relation to their management and distribution.

It is against that background that the applicant seeks for an Order declaring Dennis Murindwa as presumed to be dead so as to enable the application for the appointment of a legal representative to manage and distribute the estate of the missing person.

The issue to be determined by this Court therefore is, whether an order of presumption of death can be granted in respect of Dennis Murindwa.

Resolution of the issue

The applicant testified that she last saw Dennis Murindwa on 10th May 2002 at the family home in Ntinda at that time. She stated that Dennis Murindwa left home by a taxi to go and see a doctor and that she has never seen him again since that time. The applicant further testified that she tried looking for him through the media and newspapers. She also went out of the country with a view to look for him through Red Cross but her search did not yield anything positive. The applicant stated that it has been twenty (20) years since she last saw Dennis Murindwa.

I have considered the application, the supporting affidavit and all the supporting documents attached thereto to wit: a copy of the marriage certificate, copies of the children's Birth Certificates, Newspaper Articles about the deceased's disappearance. I also listened to the testimony of the applicant who stated that she last saw Dennis Murindwa twenty (20) years ago and all efforts to trace him have been fruitless.

Section 47 of the Registration of Persons Act, 2015 (hereinafter referred to as the Act) provides for presumption of death. Section 47 (1) thereof stipulates the following:

“where it is proved that a person has not been seen and has not been heard of for seven years by those who might be expected to have seen or heard of the person if the person were alive, there shall be a rebuttable presumption that the person is dead.”

In the instant application, Dennis Murindwa has not been seen nor heard of for almost twenty (20) years by the applicant who is his wife and falls in the category of those who are expected to have seen or heard of him if he were alive. As such, Dennis Murindwa is presumed dead and declared so having not been seen nor heard of since 10th May 2002.

Section 47 (2) thereof further provides:

“where a person is presumed dead in accordance with subsection (1), any person who would have been under a duty under section 43 of this Act to give notice of the death of the person being presumed dead may apply for an order of a presumption of death in a competent jurisdiction, and the order, once issued, shall be served upon the Authority and shall have the same effect as a certificate of death issued under this Act.”

Section 43 of the Act provides for the duty to give notice of death. Section 43 (1) (a) provides that:

“Upon the death of any person, it is the duty of the next of kin or the relative of the deceased present at the time of death of the deceased...to give notice to the registration officer of the area in which the death took place within such time as may be prescribed.”

Having earlier declared Dennis Murindwa as a person presumed dead, an order of the said presumption of death is hereby granted to the applicant who is his wife/ next of kin and is under duty to give notice of the death of Dennis Murindwa as per section 43 (1) (a) of the Act. This Order therefore shall have the same effect as a certificate of death issued under this Act.

Thus, in light of the above, the application is allowed with the following Orders:

- (a) that **DENNIS MURINDWA**, an adult male, a former resident of Corporation Road, Ntinda Ministers Village Nakawa Division is declared presumed dead;
- (b) that the National Identification and Registration Authority is hereby directed to register the presumed death of Dennis Murindwa;
- (c) That the National Identification and Registration Authority shall issue the applicant, **DOREEN KENTE MURINDWA** with a certificate of death of Dennis Murindwa; and
- (d) The costs of this application shall be borne by the applicant.

I so order.

Dated at Kampala this 28th day of March 2022.

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Alice Komuhangi Khaukha
JUDGE
28/03/2022