

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

MISC. APPLICATION NO. 006 OF 2017

**IN THE MATTER OF THE FAMILY OF YEKOYASI NKALUBO
(MISSING PERSON SINCE 1984),**

AND

**IN THE MATTER OF AN APPLICATION BY SENKUMBA JOHN (SON)
FOR AN ORDER OF A PRESUMPTION OF THE DEATH OF YEKOYASI
NKALUBO (MISSING PERSON SINCE 1984)**

RULING

BEFORE: HON. LADY JUSTICE KETRAH KITARIISIBWA KATUNGUKA

1. Introduction

This Application is brought by Senkumba John Nkalubo under **Section 47(2) of the Registration of Persons Act, No. 4 of 2015; Section 98 of the Civil Procedure Act, Cap. 71 and Order 52 Rules 1 & 2 of the Civil Procedure Rules, S.I. 71-1**, by way of Notice of Motion, seeking an Order that Yekoyasi Nkalubo, a former resident of Kayunga LCI, Kayunga Parish, Kayunga Sub County, Ntengyeru County be declared presumed dead, having been missing since 1984.

2. Representation

The Applicant is represented by Counsel Ssemakula Muganwa Charles of M/S Muganwa Nanteza Advocates.

3. Attendance

3.1. The following persons were present at the hearing and identified themselves to Court as follows;

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- i) Nankumba Betty; National ID No. **CF640231028YDD**, Card No. **003707494** born **20/05/64**
 - ii) Sebugwawo Godfrey; National ID No. **CM83023102IXID**, Card No. **002258849** born **22/12/83**
 - 5 iii) Senkumba John Nkalubo; National ID No. **CM71047100J6RD**, Card No. **000248825** – born **09/11/71**
 - iv) Nkalubo Timothy; National ID No. **CM9303210537PH**, Card No. **018611218** born **23/08/93**.
 - v) Bunkedeko Patrick, although present, did not present a National Identity
 - 10 Card.

4. The Issue for Court's consideration is;

Whether an order of Presumption of Death can be granted in respect of Yekoyasi Nkalubo

- 15 4.1. It was submitted for the Applicant that;
- a) Under **Section 47(2) of the Registration of Persons Act**, *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 court of 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.*
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 - b) The Police Report on file details the findings of the Police and Paragraph 4
 - 25 thereof states that Yekoyasi Nkalubo could not be traced for the last 32 years; that an advert was run in the newspapers in 2016; and that the Local

Council leaders, clan members, and beneficiaries, have all confirmed that Yekoyasi Nkalubo has been missing since 1984.

He therefore prayed that this Court orders a Presumption of Death over Nkalubo in order to enable application for appointment of a legal representative to manage and distribute his estate.

5. Resolution

- a) I have considered the application, the supporting affidavit and all supporting documents, including the Newspaper advert placed in Bukedde Newspaper on 31/03/2016 with a picture alleged to be that of Yekoyasi Nkalubo; I have also seen the Police Report, the letter from Nsimbe Obadia dated 30/03/2016 to the effect that the last funeral rights were held in respect of Yekoyasi Nkulubo on 18/04/1986; I have also seen a letter from the family of the said late Yekoyasi Nkalubo dated 18/03/2018 confirming the disappearance of Yekoyasi Nkalubo since 1984, and a letter from Kayunga North LCI Chairperson dated 18/03/2018 confirming the fact that Yekoyasi has not been seen since 1984; Nankumba Betty also informed court on oath that Nkalubo Yekoyasi her father has not been seen since 1984.
- b) The available evidence points to the fact that Nkalubo Yekoyasi has not been seen since 1984.
- c) Pursuant to **Section 47(2) of the Registration of Persons Act, No. 4 of 2015**, Nkalubo Yekoyasi is a missing person who is presumed dead and is declared so.

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On the above premises, and pursuant to **Section 98 of the Civil Procedure Act, Cap. 71, and Order 52 Rules 1 & 2 of the Civil Procedure Rules, SI 71-1**, I order as follows;

- 5 i) Yekoyasi Nkalubo an adult male person and former resident of Kayunga LCI, Kayunga Parish, Kayunga Sub County, Ntengyeru Country is declared presumed dead.
- ii) The Applicant shall bear the Costs of this Application.

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KETRAH KITARIISIBWA KATUNGUKA

JUDGE

8/5/2018