§ 43-17.1. Issuance of certificate upon death of registered owner; petition and contents; dissolution of corporation; certificate lost or not received by grantee.

Upon the death of any person who is the registered owner of any estate or interest in land which has been brought under this Chapter, a petition may be filed with the clerk of the superior court of the county in which the title to such land is registered by anyone having any estate or interest in the land, or any part thereof, the title to which has been registered under the terms of this Chapter, attaching thereto the registered certificate of title issued to the deceased holder and setting forth the nature and character of the interest or estate of such petitioner in said land, the manner in which such interest or estate was acquired by the petitioner from the deceased person – whether by descent, by will, or otherwise, and setting forth the names and addresses of any and all other persons, firms or corporations which may have any interest or estate therein, or any part thereof, and the names and addresses of all persons known to have any claims or liens against the said land; and setting forth the changes which are necessary to be made in the registered certificate of title to land in order to show the true owner or owners thereof occasioned by the death of the registered owner of said certificate. Such petition shall contain all such other information as is necessary to fully inform the court as to the status of the title and the condition as to all liens and encumbrances against said land existing at the time the petition is filed, and shall contain a prayer for such relief as the petitioner may be entitled to under the provisions hereof. Such petition shall be duly verified.

Like procedure may be followed as herein set forth upon the dissolution of any corporation which is the registered owner of any estate or interest in the land which has been brought under this Chapter.

In the event the registered certificate of title has been lost and after due diligence cannot be found, and this fact is made to appear by allegation in the petition, such registered certificate of title need not be attached to the petition as hereinabove required, but the legal representatives of the deceased registered owner shall be made parties to the proceeding. If such persons are unknown or, if known cannot after due diligence be found within the State, service of summons upon them may be made by publication of the notice prescribed in G.S. 43-17.2. In case the registered owner is a corporation which has been dissolved, service of summons upon such corporation and any others who may have or claim any interest in such land thereunder shall be made by publication of the notice containing appropriate recitals as required by G.S. 43-17.2.

If any registered owner has by writing conveyed or attempted to convey a title to any registered land without the surrender of the certificate of title issued to him, the person claiming title to said lands under and through said registered owner by reason of his or its conveyance may file a petition with the clerk of the superior court of the county in which the land is registered and in the proceeding under which the title was registered praying for the cancellation of the original certificate and the issuance of the new certificate. Upon the filing of such petition notice shall be published as prescribed in G.S. 43-17.2. The clerk of the superior court with whom said petition is filed shall by order determine what additional notice, if any, shall be given to registered owners. If the registered owner is a natural person, deceased, or a corporation dissolved the court may direct what additional notice, if any, shall be given. The clerk shall hear the evidence, make findings of fact, and if found as a fact that the original certificate of the registered owner has been lost and cannot be found, shall enter his order directing the register of deeds to cancel the same and to issue a new certificate to such person or persons as may be entitled thereto, subject to such claims or liens as the court may find to exist.

Any party within 10 days from the rendition of such judgment or order by the clerk of superior court of the county in which said land is registered may appeal to the superior court during a session of court, where the cause shall be heard de novo by the judge, unless a jury

trial be demanded, in which event the issues of fact shall be submitted to a jury. From any order or judgment entered by the superior court during a session of court an appeal may be taken to the appellate division in the manner provided by law. (1943, c. 466, s. 1; 1945, c. 44; 1969, c. 44, s. 49; 1971, c. 1185, s. 2.)