

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO.29 OF 2016
IN
TESTAMENTARY PETITION NO.1915 OF 2015**

Anosh Kersi Fouzdar	...Deceased
<i>And</i>	
Farzan Kersi Fouzdar	...Petitioner

Mr. Nirav Barot, i/b. M/s. Maneksha & Sethna for the Petitioner.

**CORAM: G.S. PATEL, J
DATED: 4th April 2016**

PC:-

1. This is a Petition for a declaration that one Anosh Kersi Fouzdar of Mumbai is presumed dead.

2. Anosh was a minor in December 2004. He was at that time on holiday with several members of his family in Sri Lanka. On 26th December 2004, the tsunami that affected many countries, Sri Lanka among them, claimed several lives. Except the present Petitioner, all members of the Fouzdar family perished in that calamity.

3. Annexed to the Petition are copies of advertisements issued in Sri Lanka, translations of documents issued by the local Police Authorities in Srilanka, certificates from the High Commission of India issued on 2nd February 2005, 13th March 2007, 14th May 2008, 7th September 2010 and 30th January 2012, all of which say that Anosh has not been traced and that there is no change in this position.

4. Having regard to the facts and circumstances of the case, I believe it should be allowed. In December 2004, Anosh was 12 years old. The present Petitioner himself was then only nine years old. The Petitioner attained majority on 20th April 2013.

5. In these circumstances, the Petition is made absolute in terms of prayer clause (a) which reads as follows:

“It be declared that Anosh Kersi Fouzdar who was residing at Albless Building, Flat No.7, 266, Dr. B. Jaykar Marg, Mumbai 4000 002 is presumed to be dead”.

6. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)