

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 68 OF 2017**

Karishma S Marathe

...Missing Person

And

Subhash N Marathe

...Petitioner

None *for the Petitioner.*

**CORAM: G.S. PATEL, J
DATED: 1st March 2018**

PC:-

1. The Petition seeks combined relief under Section 108 of the Evidence Act and Section 2 of Bombay Regulation VIII of 1827 in respect of one Karishma S Marathe nee Anjali Shamrao Chavan. All the other heirs have consented. Hence, issuance of proclamation dispensed with. The Petition is made returnable forthwith and taken up for hearing and final disposal.

2. The Petition says that Karishma S Marathe nee Anjali Shamrao Chavan lived at 404, Silver Palace, B-Wing, Akal Society Compound, JB Nagar, Andheri (East), Mumbai 400 059. On 11th April 2006 early in the morning she left this place. She never returned. She has not been heard from or seen since by those who would otherwise had either naturally heard from her had she been

alive. A missing persons' complaint was registered with the Andheri Police Station on 14th April 2006 after the family members failed to trace her and their enquiries at the usual places and with the friends and relatives returned with no results. It is said that she left no Will.

3. The Petitioner is the husband of Karishma. He lodged a complaint with the Andheri Police Station on 14th April 2006 as also on the same day a newspaper publication in the Times of India and a day later in Mid-Day. There was no response. The Police Authorities of Andheri have confirmed by Certificate dated 25th April 2013 that there is no trace of Anjali. The Petitioner and Anjali were married on 12th December 1982. They had two daughters and a son from this marriage.

4. It is in these circumstances that prayer clause (a) is sought under Section 108 of the Evidence Act that Anjali having been missing for more than seven years be presumed dead. The second relief sought is for issuance of a Heirship Certificate in favour of the Petitioner and his three children by Anjali.

5. All three heirs have consented.

6. The Legal Heirship Certificate is required in respect of her insurance and bank accounts.

7. No other Petition for a heirship certificate, succession certificate, probate or letters of administration with or without will

annexed has been filed. There is no impediment to the grant of relief.

8. The petition is made absolute in terms of prayer clauses (a) and (b), which read thus:

"(a) That this Hon'ble Court be pleased to declare and make an order of Presumption of the Death of Karishma Subhash Marathe nee Anjali Shamrao Chavan, the abovenamed missing person, having been missing from 11th April 2006 under the provisions of Section 108 of Indian Evidence Act, 1872;

(b) That a Legal Heirship Certificate may be issued certifying that 1. Subhash Narayan Marathe, the Husband, 2. Avantika Gannesh Gidh the daughter, 3. Ashlesha Prasad Kshirsagar the daughter and 3. Viraj Subhash Marathe the son respectively are the only heirs and Legal representative of the missing person under the provision of Bombay Regulation Act VIII of 1827."

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

(G. S. PATEL, J)