

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 40 OF 2020
IN
TESTAMENTARY PETITION NO. 1440 OF 2019**

Minaxi K Nagar	...Petitioner
Vithaldas G Shah	...Deceased
<i>And</i>	
Rajesh Vithaldas Shroff	...Missing Person

Mr Parag Shah, with Ms Shraddha Prajapati, for the Petitioner.

**CORAM: G.S. PATEL, J
(Through Video Conferencing)
DATED: 11th August 2021**

ARUN
RAMCHNDRA
SANKPAL

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ARUN
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SANKPAL
Date: 2021.08.12
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PC:-

1. The Petition seeks an order under Section 108 of the Indian Evidence Act, 1908 for a declaration that one Rajesh Vithaldas Shroff has been missing for more than seven years and must now be presumed to be dead.

2. The two Petitioners are Rajesh's sisters. The Petitioners and Rajesh's mother, Shantaben Shah died intestate on 20th January 2008. Their father died earlier. The two sisters and Rajesh are the

only heirs of their parents. The Petitioners had earlier filed a testamentary petition for a succession certificate in regard to the estate of their deceased father. Rajesh was married to Rakhi on 11th October 1998. Rajesh is survived by his wife, Rakhi and their son, Yash. Both Rakhi and Yash consented to the grant of the succession certificate that the Petitioners filed in respect of the securities in the name of their deceased father, Vithaldas.

3. It seems that Rajesh left his residence at 11.30 pm on 20th September 1993 and never returned. His whereabouts are unknown.

4. There was a missing persons complaint lodged with the police at Kandivali (West) bearing complaint No. 93. A copy is annexed.

5. The police authorities have issued a missing person certificate on 11th February 2004. A copy of that is also annexed.

6. Accordingly, there is no impediment to grant of relief.

7. The Petition is made absolute in terms of prayer clauses (a) and (b).

8. This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production of an ordinary copy of this order.

(G. S. PATEL, J)