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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

TESTAMENTARY PETITION NO.1141 OF 2018

Dharam Singh Hoonjan ...Deceased

Jagdish Singh Hoonjan ...Petitioner

Mr. Waquar Ahmad for the Petitioner.

CORAM : R.I. CHAGLA J.
DATE : 25 October 2021

ORDER :

1. Heard learned Advocate for the Petitioner.

2. The learned Advocate for the Petitioner has sought for a declaration that a missing person Dharam Singh Hoonjan may be declared as dead.

3. The learned Advocate for the Petitioner by this Petition has sought for a succession certificate to be granted to him in respect of debts and securities set forth in the schedule annexed to the Petition to collect the said debts and securities and interest with all the benefits accrued thereon. The Petitioner has stated that Dharam Singh Hoonjan had

somewhere in the month of August, 2009, left his house and did not return back. The elder brother of the Petitioner immediately went to the Mahim Police Station to lodge the missing complaint of the Dharam Singh, but the said police refused to lodge the complaint and also directed the elder brother of the Petitioner to search for the missing person. It is further stated that the elder brother Gulshan Hoonjan made each and every effort to find missing person. The Petitioner was working at London and the Petitioner was there since from the 2005 to the year 2009. On his return in October, 2009 he made an effort to search for his father. The Petitioner filed missing person complaint with Mahim Police Station vide Sr.No.03/2011 dated 12th January, 2011. Repeated enquiries were conducted but in vain. The Police Authorities issued a certificate on 29th January, 2018 that Dharam Singh Hoonjan is still not been traced or found.

4. In view of the averments in the Petition, I am satisfied that a case is made out for grant of relief sought for in terms of prayer clause (a).

5. So far as the prayer sought for succession

certificate is concerned, in respect of the debts and securities set forth in schedule annexed to the Petitioner is concerned, the only other heir of the Dharam Singh Hoonjan, Mr. Gulshan Hoonjan has given no objection by his Affidavit dated 13th October, 2021 for grant of succession certificate in favour of the Petitioner. The wife of the deceased Sukhvinder Kaur had already expired on 22nd July, 2010. The parents of the deceased have pre-deceased the deceased. There is no son or daughter of the deceased.

5. The debts and securities in respect of which succession certificate is applied for are set forth in schedule No.1 at Exhibit B to the Petition. The succession certificate is required for the purpose of releasing and / or collecting the debts and securities left by the deceased which are set forth in the said schedule. The assets in respect of which the succession certificate is required are stated to be the net value of Rs.13,44,715/-. There is no application made to any District Court or District delegates or to any other High Court for probate of any Will of the said deceased or letters of administration with or without will annexed to the property and credits.

6. In view of the averments made in the Petition, I am satisfied the case is made out to grant relief in terms of prayer clause (b) of the Petition. In view thereof the following order is passed:-

(i) The missing person Dharam Singh Hoonjan is declared as dead.

(ii) The Succession Certificate shall be granted to the Petitioner in respect of the debts and securities set forth in schedule at Exhibit B to the Petition for power to collect the said debts and securities and interest with all the benefits accrued thereon.

(iii) The Petition is disposed of in the above terms.

(iv) Testamentary Department shall proceed with the grant of Succession Certificate.

(v) The grant of succession certificate shall be expedited.

[R.I. CHAGLA J.]