

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

MISCELLANEOUS PETITION NO. 191 OF 2022

Sameer Narendra Shah

...Deceased

Mr. Mayur Narendra Shah

...Petitioner

Ns, Bhakti Jogal for Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 28th April, 2023

P.C. :

1. The present Petition is filed under Section 108 of the Indian Evidence Act, 1872, in respect of one Mr. Sameer Narendra Shah. The Petition sets out that on 14th October, 2005, the Petitioner made a missing person's complaint to the Senior Inspector, Malwani Police Station, Mumbai, which recorded that one Mr. Sameer Narendra Shah had been missing.

2. Learned Counsel submits that since that day Mr. Sameer Narendra Shah continuous to be missing and has not been heard for more than seven years by those who would have naturally heard of him had he been alive. Learned Counsel submits that in support of her contention that the said Mr. Sameer Narendra Shah has been missing for a continuous period of seven years,

invites my attention to a copy of a certificate dated 6th February, 2016, issued by the Senior Inspector of Malwan Police Station (in favour of Lost Person Centre Criminal Branch), which records that the said Mr. Sameer Narendra Shah continuous to be missing till the date of certificate. Learned Counsel, therefore, submits that the necessary requirement of Section 108 of the Indian Evidence Act, has been met and the presumption of death can be drawn in the facts of the present case.

3. I have heard learned Counsel and perused a copy of the present Miscellaneous Petition and find that the same is in order and sufficient material has been placed on record to draw the necessary presumption of death of Mr. Sameer Narendra Shah. Miscellaneous Petition is therefore, allowed in terms of prayer clause (a) which reads as under:-

“a) That this Hon’ble Court may be pleased to declare Mr. Samir Narendra Shah as dead in view of he not been heard for more than years by those who would have naturally heard of him had he been alive, hence he is presumed to have died under Section 108 of Indian Evidence Act, 1908.”

4. The present Miscellaneous Petition is accordingly, disposed of.

(ARIF S. DOCTOR, J.)