

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO.1709 OF 2021**

Chandrashekhhar Shantaram Tetambe

... Missing Person

Mahendra Kumar Laxman Teke

... Petitioner

Ms. Mona D. Vyas for the Petitioner.

**CORAM : ARIF S. DOCTOR, J.
DATE : 20TH JANUARY 2023**

P.C. :

1. The present Testamentary Petition has been filed for a dual purpose, viz., (a) to presume/declare one Chandrashekhhar Shantaram Tetambe ('the said missing person') to be dead under Section 108 of the Indian Evidence Act, 1908 and (b) for the grant of Letters of Administration to the properties and credits of the said missing person, viz., Chandrashekhhar Shantaram Tetambe.

2. The Testamentary Petition sets out that the said missing person left from his premises, i.e., Room No.3, Anandi Laddhawani Chawl, Tawri Pada, Dr. S. S. Rao Road, Lalbag, Mumbai 400 012 on 23/11/1996 and he has not been heard for a continuous period of more than 27 years by those who would have naturally heard of him, if he would have been alive.

3. Learned Counsel appearing on behalf of the Petitioner invites my attention to a Complaint filed with Kalachowki Police Station on 23/11/1996 being Complaint No.2 of 1996. Learned Counsel also invites my attention to the Certificate dated 06/07/2018 issued by the Senior Inspector, Kalachowki Police Station which records that the said missing person has yet not been found.

4. Learned Counsel appearing on behalf of the Petitioner also states that the Petitioner had once again in the year 2019 approached the Senior Inspector of Police, Missing Department, Crime Branch, Criminal Investigation Department, Mumbai to make an inquiry whether the said missing person had been found, however, no information of the said missing person had been submitted to the Petitioner. Learned Counsel submits that the Petitioner therefore issued a public notice of the missing person on 02/12/2019 in the newspapers, viz., Free Press Journal (English) and Tarun Bharat (Marathi). Despite the said publication of this notice, no information of the said missing person has been received.

5. It is in these circumstances, the Petitioner submits that a presumption under Section 108 of the Indian Evidence Act, 1908 be drawn to declare the said missing person as dead.

6. I have heard learned Counsel as also considered the Petition and its annexures and find that there is sufficient material to draw the presumption required under Section 108 of the Indian Evidence Act, 1908. Therefore, the said missing person is declared/presumed to be dead.

7. Paragraph 10 of the Testamentary Petition sets out a list of only heirs and next of kin of the missing person according to the Hindu Succession Act, 1956 with their respective residential addresses. The consent affidavits of all other legal heirs are annexed to the Petition.

8. The Petitioner has truly set out all the debts and properties of the missing person/deceased to the best of his knowledge in Schedule I to the Petition.

9. I have heard learned Counsel appearing on behalf of the Petitioner, perused the Petition and find that the same is in order. There is no impediment in law to the grant of reliefs as sought for.

10. The Testamentary Petition is therefore allowed in terms of prayer clauses (a) and (b), which read as under :-

- "a. That this Honourable Court may be pleased to declare Mr. Chandrahekhar Shantaram Tetambe as dead In view of he not been heard for more than 7 years by those who would have naturally heard of him had he been alive hence under presumption of death under Section 108 of Indian Evidence Act, 1908.*
- b. That a Letters of Administration may be granted to the Petitioner in respect to the property and credits set forth in Schedule I hereto;"*

11. The Testamentary Petition is disposed of accordingly.

(ARIF S. DOCTOR, J.)