

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

MISC PETITION NO. 66 OF 2024

R. Thilagam And Anr. ...Petitioners
Versus
Madhavan Nadamuni ...Deceased

Mr. Prabhu Velar i/by Mr. Ravindra Shetye for Petitioners.

CORAM : N. J. JAMADAR, J.
DATE : 14th OCTOBER 2024

**VISHAL
SUBHASH
PAREKAR**

PC.:

1. Heard the learned Counsel for the Petitioners.
2. This petition is filed for a declaration that Madhavan Nadamuni, the missing person must be presumed to be dead and, consequently, for the grant of heirship certificate.
3. The missing person was the brother of the petitioners. Madhavan Nadamuni has gone missing since 24th May 2004. The missing person has not been heard of by his relative since then. A Missing Report was lodged on 25th May 2004. On 30th June 2011, the petitioners obtained a Missing Certificate from the jurisdictional police.
4. The petitioners assert all these years neither the

petitioners nor any other relative has heard about the missing person. By an order dated 25th June 2024, proclamation was ordered to be issued and published in two newspapers i.e. Daily Thanthi (Tamil) and Free Press Journal (English) circulated in the area in which the missing person last resided. Publication of proclamation in newspapers has been filed. No objection seems to have been lodged by any person.

5. The documents annexed to the petition substantiate the claim of the petitioner that they have not heard about the missing person since the year 2004. The fact that Madhavan Nadamuni had gone missing is substantiated by the contemporaneous conduct of the petitioner in lodging the report about the said fact and obtaining the certificate from the jurisdictional police. Thus, I do not find any impediment in making the declaration that Madhavan Nadamuni be presumed to be dead as he has not heard of by the persons who could have heard about him, since the year 2004.

6. The petitioners claim to be the sisters of the missing person. Durairajan Nadamuni, the unmarried brother of the missing person, passed away on 14th July 1997. Copy of the

death certificate of Durairajan Nadamuni is annexed at Exhibit-C to the petition. Sarojini Nadamuni, the mother of the missing person, also passed away on 8th November 2004. A copy of the death certificate of Sarojini Nadamuni is annexed at Exhibit-D to the petition. The heirship certificate is required to lay claim over the property belonging to the missing person, which is described in paragraph No. 3 of the petition. It appears that the petitioners are the class-II heirs of the deceased/missing person. There is no other legal heir. I am, therefore, inclined to allow the petition.

7. Hence, the following order:

ORDER

(i) Petition stands allowed in terms of prayer clause (A) and (C) which reads as under:-

“(A) This Hon’ble Court be pleased to declare the said missing person – Madhavan Nadamuni as dead;

(C) This Hon’ble Court be pleased to issue Legal Heirship Certificate to both the Petitioners, under the provision of Bombay Regulation VIII of 1827 certifying that both the Petitioners are the only surviving legal heirs and legal representatives are mentioned above, of the said missing person.”

(ii) The grant of heirship certificate is expedited.

(N. J. JAMADAR, J.)