



Filed on 09-04-2019
Registered on 09-04-2019
Decided on 18-05-2026
Duration 7y 1m 9d

**IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE,
AT KAPADWANJ.**

CMA No. 24 OF 2019

Exh.-

Applicant/Plaintiff:

Legal heirs of late Dhirajlal Mathurdas Shah

1. Dilipkumar Dhirajlal Shah

Age: 60, Occupation: Business

R/o. 20, Harikunj Society, Near College, Dakor Road

Kapadwanj, Dist. Kheda.

VERSUS

Opponent:

NONE

Appearance :

Ld. Advocate V. L. Shah for the applicant

Subject:- Application for getting Succession Certificate

:: J U D G E M E N T ::

1. It is say of the applicant that the applicant is the son of deceased

father Dhirajlal Mathurdas Shah and deceased mother Hasumatiben Dhirajlal Shah. Further stated that the applicant is the legal heirs of late Dhirajlal Mathurdas Shah died on 25/11/2001 and Hasumatiben Dhirajlal Shah died on 07/05/2010. It is say of the applicant that the deceased left behind shares having present market value of Rs. 1,42,506/- the certificate for lost Shares Folio No. DH314898 certi. No. 314898, Dist. No. 13831358 to 13831367 issued by Police Inspector, Kapadwanj and Folio No. 15822 CERT No. 439210 START Dist No. 16993307 to 16993336 total 40 shares.

2. Upon institution of the present application public notice was ordered to be issued in the daily newspaper having wide publicity and pursuant thereto, a public notice was published in a local daily newspaper at Exh. 30, but nobody has objected in respect of the succession certificate.
3. Thereafter, the applicant No. 1 has filed affidavit as examination in chief vide Exh. 38, in which he has supported all the facts of the plaint. Therefore, he has prayed to issue succession certificate in name of Dilipkumar Dhirajlal Shah.
4. Now, considering the averments and documents produced on record it is borne out that the application is non-contentious. Now, before

going into the merits of the application the moot question has been arisen that whether the applicant is entitled to get the succession certificate of the property as prayed for ? For that, it will be advantageous to refer to Section- 370 of the Indian Succession Act, which reads as follows :

"370 : Restriction on grant of certificates under this Part :

1) A succession certificate (hereinafter in this Part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by Section 212 or Section 213 to be established by letters of administration or probate : Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under this Act".

5. Now, in view of the aforesaid provisions of the Act a succession certificate shall not be granted under Part 10 with respect to any debt or security to which right is required by Section 212 or Section 213 to be established by letters of Administration or Probate and as per

the Sub-section (2) of Section 370 security means any promissory note and debenture, stock etc., therefore, the word debt or security includes movable property, therefore, succession certificate can be issued in regard to the movable property. Hence this point is answered accordingly.

6. Therefore, this Court is of the considered opinion that the present application filed by the applicants deserves to be allowed. Therefore, the following final order is passed.

:: ORDER ::

1. This application is hereby allowed.
2. It is ordered that, upon furnishing requisite Court fee stamps in respect of the properties described and mentioned in the para 2 of examination in chief of applicant and scheduled attached, succession certificate be issued as per rules in the name of and in favour of the applicant i.e **Dilipkumar Dhirajlal Shah** in his personal capacity.

Pronounce in the open Court today on 18th day of May, 2026.

Place : Kapadwanj
Date :- 18/05/2026

(M. R. Shukla)
Additional Senior Civil Judge,
Kapadwanj
(Judge Code-GJ00681)