

SEYCHELLES / JUDGMENT

Ex Parte: Octobre (MC 40 of 2024) [2024] SCSC 195 (29 November 2024)

[2024] SCSC 195

COURT

Supreme Court

CASE / FILE NUMBER

MC 40 of 2024

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In the matter of:

EX I)ARTE:

MAIUA OCTOBRE

(rep. by Wilby Lucas)

SUPREME COURT OF SEYCHELLES

Reportable

MC 40/2024

(29 November 2024)

Neutral Citation: Ex Parte: Maria Octobre (MC40/2024)

Before:

Summary:

Judge Esparon

Application seeking an order of this Court to order an enquiry to be carried out into the circumstances

ascertain whether she is dead or not.

in which a person has disappeared in order to

Heard:

Delivered:

041h November 2024

29th November 2024

ORDER

Application made under section 2 and section 3 of the Presumption of Deaths Act-
Order grantedfor a Magistrate to hold a public enquiry in the circumstances under which the
person alleged to

be dead disappeared in accordance with section 3 of the Presumption of Deaths Act.

RULING

- [1] This Petition filed under section 2 read with section 3 of the Presumption of Death Act is seeking an order from this Court ordering a Magistrate to hold a public enquiry in order to ascertain and establish as to whether Marie- Therese Jeannie Bibi nee Emmanuel is dead or alive. The Pleadings [2] The Petition is supported by the Affidavit of the Petitioner Maria Octobre and Albert Bibi who avers inter- alia in their Affidavit the following; '3) Whereas Marie-Therese Jeannie nee Emmanuel went missing on a date unknown during the Year 1989.
- 4) At the time of her disappearance the said Marie-Therese Jeannie Bibi was 82 years old and she was living with her daughter Louita Octobre born Bibi at the upper Val D'endor in the district of Baie Lazare.
- 5) r averred that the said Mari- Therese Jeannie Bibi was not mentally stable.
- 6) After her disappearance, members of her family and neighbours searched for her where about in the vicinity for many days in a joint search party operation with the police but she was not found dead or alive.
- 7) Her disappearance was reported at the Baie Lazare Police Station.
- 8) I am the daughter Louita Octobre and the granddaughter of the said Marie-Therese Jeannie Bibi whereby I confirm that no one from the police or any relevant authority had advised or informed our family of any available formalities to seek for a declaration by way of an inquest.
- 11) The said Marie-Therese Jeannie Bibi born Emmanuelle has not been heard of for the past 34 years and all indication is that Marie-Therese Jeannie Bibi is not alive. The Law [3] Section 2 of the Presumption of death act provides that "the Attorney General, the relatives of a person who has disappeared, or anyone interested in the property of the person who has disappeared, may, whenever he or any of them have reason to believe that such a person is dead, but such death cannot be proved or registered because the dead body has not been found or else because it is not possible to give formal proof of such death, lodge a petition at the Registry of the Supreme Court requesting a Judge to order an enquiry in order to ascertain whether such person is dead".

Analysis and determination

- [4] Ex-facie the Affidavit in support of the Petition, this Court is satisfied that the Petitioner has locus standi to bring such a Petition before the court being the granddaughter of the said Marie-Therese Jeannie Bibi born Emmanuelle and hence being a relative of the said person which alleged to have disappeared 34 years ago which is the subject of this Petition in accordance with section 2 of the Presumption of Deaths Act. [5] Ex- Facie then Affidavit, this Court is also satisfied that the granddaughter of the said person namely Maria Octobre and

the other deponent Albert Bibi have reasons to believe that such a person namely Marie-Therese Jeannie Bibi born Emmanuelle is dead and that such death cannot be proved or registered because the dead body has not been found and it is not possible to give formal proof of such death since as averred in their Affidavit that the said Marie-Therese Jeannie Bibi born Emmanuelle went missing on a date unknown during the year 1989 and has not been heard of for the past 34 years and all indication is that Marie-Therese Jeannie Bibi is not alive. Furthermore, the said person was 82 years old at the time of her disappearance 34 years ago. [6] As a result of the above, this Court makes the following orders; i) I accordingly allow the Petition and order that a Magistrate (whose selection shall be approved by the Minister) to hold a public enquiry into the circumstances under which the said Marie-Therese Jeannie Bibi born Emmanuelle alleged to be dead disappeared. ii) I also accordingly direct such Magistrate to summon the Commissioner of Police or his delegated representative to produce the said occurrence book from Baie Lazare Police Station of which the entries of the disappearance of Marie- Therese Jeannie Bibi born Emmanuelle have been made on a date unknown during the year 1989 and any docket file relating to the said disappearance of the said person in the year 1989, Signed, dated and delivered at Ile du Port on the 29th November 2024, c;Rt/€01~ Esparon J "~. "

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