

IN THE COURT OF THE II-ADDL.CIVIL JUDGE & J.M.F.C, DAVANAGERE

Present: Mallikarjuna,
II-Addl.Civil Judge & J.M.F.C,
Davanagere.

Crl. Misc No.695/2023

DATED THIS 9th DAY OF NOVEMBER, 2023

Petitioner : 1. Sri Rudrachari Krishnachari Badiger
S/o Krishanappa Badiger, 74 years,
Occ : Agriculturist,

2. Sri K.Ramachar S/o Krishnappa
Badiger, 60 years, Occ : Agriculturist,

The petitioners No.1 and 2 are
R/o Doddagubbi Post, Hiremadapur village,
Rattihalli Taluk, Haveri District.

3. Sri Lakshmana.K S/o Krishnappa,
54 years, Occ : Agriculture,
R/o D.No.5, 2nd Main 2nd Cross,
Chamundeshwari Layout,
Bengaluru – 560 097.

(By Sri S.R.A Advocate

V/s

Respondent : The Commissioner,
City Municipal Corporation,
Davanagere.

(Exparte)

ORDER

Petitioners have filed the instant petition seeking directions against the respondent to enter the date of death of mother of petitioners and issue Death certificate.

2. Brief facts of the case of the petitioner are that, the mother of the petitioners by name Mahadevakka W/o Krishnappa Badigera was died on 18.08.1976 at C.G.Hospital, Davanagere. Due to unavoidable circumstances the fact of death of their father was not informed to the concerned authority. In order to get death certificate of their father, the petitioners have submitted an application to the respondent, for which the respondent issued a "Non-availability Certificate" on 14/07/2023. Therefore, the petitioner prayed for directions against the respondent for issuance of death certificate of the deceased.

3. Despite of service of notice, the respondent has not chosen to appear in the matter and contest the claim of the petitioners. Hence, the respondent is placed Ex-parte in this case.

4. Petitioner No.2 examined himself as PW1 and documents got marked at Ex.P1 to P5.

5. I have heard and perused the material on record.

6. Points that arise for consideration are:

1. Whether the petitioners are entitled for the relief claimed?
2. What order?

7. My answers to the above points are as follows:

Point No.1: In the Affirmative,

Point No.2: As per the final order for the following:

-: R E A S O N S :-

8. **Point No.1:** In order to prove the case of the petitioner, petitioner examined himself as PW1 and got marked non-availability certificate as Ex.P1, notarized copy of Adhaar card is marked as Ex.P2, affidavit is marked as Ex.P3 and publication in local newspapers as Ex.P4 and 5. The documents exhibited by the petitioner show that deceased is the father of petitioners. Further, the documents produced by the petitioners does not show the date on which their father was died, but upon the paper publication nobody has appeared before this court and raised any objection with regard to issuing of death certificate of deceased. The evidence given by the PW.1 in his chief-examination upon oath is remained unchallenged and hence it is to be considered as true and correct. The Hon'ble High Court of Karnataka decision reported in **2004 KCCR 2674**, has held that, the contents of the affidavit i.e., on oath should be considered as a higher probative value, in absence of contrary to the averments.

9. On the other hand, as already stated above, the respondent has not chosen to contest the claim of the petitioners. The evidence of the petitioner has remained unchallenged. Therefore, based on the evidence available on record and statement on oath by the petitioner, I do not find any grounds to decline the relief sought for and if said relief is granted, it will not cause any prejudice to the respondent. Therefore, it will not cause any prejudice to meet the ends of justice to allow this petition. Accordingly, in the circumstances, I answer Point No.1 is in the **AFFIRMATIVE.**

10. **Point No.2:** In view of the above findings, I proceed to pass the following:-

:- O R D E R :-

Present petition is hereby allowed.

Respondent is hereby directed to register the event of the date of death of mother of petitioners i.e., Mahadevakka W/o Krishnappa Badigera as 18.08.1976 at C.G.Hospital, Davanagere and issue Death Certificate after collecting necessary charges.

(Dictated to the Stenographer directly on computer, after her transcription, corrected, signed and then pronounced by me in open Court on this the 9th day of November, 2023)

(Mallikarjuna)
II-Addl.Civil Judge & JMFC,
Davanagere.

-: ANNEXURE :-**Witnesses examined for the petitioner:**

PW.1 Rudrachari

Documents exhibited by the Petitioner:

Ex.P1 Non availability certificate
Ex.P2 Notarized copy of Adhaar card
Ex.P3 Affidavit
Ex.P4, 5 Paper publications

Witnesses examined for the Respondent:

-: Nil :-

Documents exhibited by the Respondent:

-: Nil :-

II-Addl.Civil Judge & JMFC,
Davanagere.

ORDER

Present petition is hereby allowed.

Respondent is hereby directed to register the event of the date of death of mother of petitioners i.e., Mahadevakka W/o Krishnappa Badigera as 18.08.1976 at C.G.Hospital, Davanagere and issue Death Certificate after collecting necessary charges.

II-Addl.Civil Judge & JMFC,
Davanagere.