



**IN THE COURT OF THE CIVIL JUDGE & J.M.F.C., KAGWAD
AT: KAGWAD**

**Present : Sri.Channabasappa R. Koodi,
B.A., L.L.B.,
Civil Judge & JMFC, Kagwad**

Dated this 30th day of October 2024

Crl.Misc.No.101/2023

1. Shri.Ravindra S/o Ganapati Kodag,

Age: 37 years, Occ: Agriculture,
R/o: Mole, Tq: Kagwad, Dist: Belagavi.

2. Smt.Sangeeta W/o Sunil Patil,

Age: 34 years, Occ: Household work,
R/o: Jambagi, Tq: Athani,
Dist: Belagavi.

3. Shri.Ganapati S/o Marthand Kodag,

Age: 65 years, Occ: Agriculture,
R/o: Mole, Tq: Kagwad,
Dist: Belagavi.

.....Petitioners

(By Sri.A.R.M, Adv.)

V/s.

1. The Registrar of Birth & Death Officer,

The Tahashildar, Kagawad Taluka Office,
Tq: Kagawad, Dist: Belagavi.

2. The Village Accountant,

Mole, Tq: Kagawad, Dist: Belagavi.

.....Respondents

(R-1 and 2 Represented by Asst. Govt. Pleader)

**ORDER**

The petitioners have filed this petition under Section 13(3) of the Birth and Death Registration Act 1970 for entry of death of Smt.Kanchana W/o Ganapati Kodag in the Birth and Death register of the respondents.

The brief facts of the petitioners' case as follows;

2. It is case of the petitioners that, the petitioner No.1 and 2 are children and petitioner No.3 is husband of deceased Kanchana W/o Ganapati Kodag. Further, Smt.Kanchana W/o Ganapati Kodag was died on 05.06.2018 at Mole village of Kagwad Taluk. The petitioners after the death of Kanchana W/o Ganapati Kodag immediately orally requested the respondents authority for entry of date of death of Smt.Kanchana W/o Ganapati Kodag in their birth and death registrar. As such they were under the impression that, date of death of Smt.Kanchana W/o Ganapati Kodag was entered in the register of the respondents authority. It is specific case of the petitioners that, the death certificate of the deceased Smt.Kanchana W/o Ganapati Kodag is necessary for certain Government facilities



and such other bonafide purposes. For that reason, the petitioners applied for death certificate of deceased Smt.Kanchana W/o Ganapati Kodag, at that time, the respondents authority given non-availability endorsement on 26.07.2023. Therefore, it is just and necessary to obtain the death certificate of the Smt.Kanchana W/o Ganapati Kodag. Since, the respondents issued non-availability endorsement, the petitioners constrained to file this petition.

3. After institution of the petition, notice was served upon the respondents. The respondents have appeared before the court through counsel and filed objections to the main petition contending that, petition is not maintainable in the eye of law as well as on facts. The petitioners have not placed any reasonable and convincing ground for registration of the death of deceased person. Hence, prays for dismissal of the petition.

4. In order to prove their case, the petitioners have got examined the petitioner No.1 as PW.1 and got marked Ex.P.1 to Ex.P5 documents. Further the respondents have not adduced their evidence.



5. Heard and perused the materials available on record. The points that arise for my consideration are as under;

1. Whether petitioners are entitled to the relief as sought for?
2. What Order?

6. My answer to the above points for my consideration are as under;

Point No.1:- In the affirmative,

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

REASONS

7. **POINT No.1:-** The petitioners have filed this petition for registration of the death of the deceased Smt.Kanchana W/o Ganapati Kodag in the register of the respondents authority and thereby issue of death certificate of the deceased Smt.Kanchana W/o Ganapati Kodag. In support of the petition, the petitioner No.1 filed his affidavit in lieu of his examination in chief and got examined as PW1 and got marked Ex.P1 to Ex.P5 documents. The Ex.P1 is certified copy of the non-availability endorsement issued by respondents dated 26.07.2023, Ex.P2 is the RTC extract of suit property bearing



R.S.No.472/2E, the Ex.P3 and Ex.P4 are the Kannadamma and Lokadarshan Kannada daily newspaper publication dated 09.02.2024, Ex.P5 is the genealogy. The examination in chief of the PW1 is nothing but reiteration of the petition averments. This is sum and substance of the evidence of the PW1 and the documents got exhibited as Ex.P1 to Ex.P5 documents.

8. The respondents counsel in respect of their statement of objection, got cross-examined the PW1 contending that, the petitioners have not intimated to their office for entry of the death report of the deceased Smt.Kanchana W/o Ganapati Kodag within the time and the petitioners filed false, frivolous petition. On perusal of the cross-examination of the PW1, it shows that, nothing has been elicited from the mouth of PW1 to disbelieve the case of the petitioners regarding death of the Smt.Kanchana W/o Ganapati Kodag. The Ex.P.1 is the non availability certificate issued by the respondents No.1 is clearly discloses that, the date of death of the petitioners mother and wife Smt.Kanchana W/o Ganapati Kodag was not entered in the death register maintained by the respondents. Further as per



Ex.P3 and Ex.P4 are the Kannada daily newspaper publication, it shows that, the petitioners by way of paper publication taken suitable steps regarding their petition claim in respect of deceased Kanchana W/o Ganapati Kodag. Under such circumstances this court is of the view that, the oral evidence of the PW.1 is in consonance with the material evidence.

9. Further, the petitioners also issued paper publication through Ex.P.3 and Ex.P4 calling upon the interested parties to appear before the court to put their say or objection to the petition. The paper publication was duly published, but no one appeared as objectors. On going through the oral and documentary evidence, it is clearly forthcoming that, the date of death of Smt.Kanchana W/o Ganapati Kodag is not entered in the concerned register. Further, even though the notice was issued through paper publication as per Ex.P3 and Ex.P4 regarding death of the Smt.Kanchana W/o Ganapati Kodag and for entry of the report of the death of the Smt.Kanchana W/o Ganapati Kodag in the respondents register. But, no one appeared to file their objection to the petition and contested the



matter apart from the respondents authority. Since, the respondents authority failed to disprove the case of the petitioners, this court is of the view that, the petitioners proved their case with cogent evidence and if the petition is allowed no prejudice will be caused to the respondents authority for entry of the death of the deceased Smt.Kanchana W/o Ganapati Kodag in their register. Accordingly, the Point No.1 answered in Affirmative.

10. **POINT NO.2:-** For the aforesaid reasons, the court proceed to pass the following;

ORDER

The petition filed by the petitioners under
Section 13(3) of The Birth and Death
Registration Act is allowed.

The respondents is hereby directed to enter
the date of death of Smt.Kanchana W/o
Ganapati Kodag in the concerned death register
as on 05.06.2018 at Mole of Kagwad Taluka after



collecting necessary fee as per Birth and Death
Rules.

(Dictated to the Stenographer, directly on computer, computerized by him, corrected by me and then pronounced by me in the open Court this the 30th day of October 2024).

(Channabasappa R. Koodi)
Civil Judge & JMFC., Kagwad

ANNEXURE

1. **WITNESS EXAMINED BY THE PETITIONERS:-**
PW.1 :Shri.Ravindra Ganapati Kodag
2. **DOCUMENTS MARKED BY THE PETITIONERS:-**
Ex.P1 :C/c of the non-availability endorsement
issued by respondents dated 26.07.2023,
Ex.P2 :RTC extract of suit property bearing
R.S.No.472/2E,
Ex.P3 & 4 :The Kannadamma and Lokadarshan
Kannada daily newspapers,
Ex.P5 :The genealogy.
3. **WITNESSES EXAMINED BY RESPONDENTS:-**
-Nil-
4. **DOCUMENTS MARKED BY THE RESPONDENTS:-**
-Nil-

(Channabasappa R. Koodi)
Civil Judge & JMFC., Kagwad