

MHJN060015952023

Cri. Misc. Application No. 435/2023

Passed on 25/09/2023



Order Below Exh.1 in

***Sunita Prakash Paithankar,
Age :51 yrs. Occu.: Household,
R/o. Bhokardan, Tal. Bhokardan,
Dist. Jalna.***

....Applicant

V/s.

***Registrar, Birth-Death,
Chief Municipal Officer, Bhokardan,
Tq. Bhokardan, Dist. Jalna.***

...Opponent

01. This is an application for taking entry of death of the applicant's husband namely Prakash @ Prakashrao Sakharam Paithankar. Applicant's husband is died on 28/02/2014 at Bhokardan, Tal. Bhokardan, Dist. Jalna. However, fact of his death was remained to be noted in the relevant register of government. Hence, it is prayed that, the concerned authority be directed to take entry of his death in the relevant register.

02. A public citation was issued calling objections of public at large for taking entry death of applicant's husband namely Prakash @ Prakashrao Sakharam Paithankar as prayed in the application. However, none appeared or raised any objections to it.

03. Perused the application and accompanied affidavit, and following points arise for determination, to which, findings are recorded with given below.

Sr. No.	POINTS	FINDINGS
1)	Whether the applicant has prima-facie established that her husband is died on 28/02/2014 ?	 Yes.
2)	What Order ?	Application is allowed.

R E A S O N S

04. The applicant has filed his affidavit of evidence at Ext.06, wherein she has reiterated her case as per the application. She has produced copy of certificate of N.P. Bhokardan (Exh.05), Aadhar Card of applicant. Moreover, it is stated that, due to oversight, fact of death of applicant's husband was remained to be notified with the concerned authority.

05. The N.P., Bhokardan issue certificate dtd.26/06/2023 and contended that, entry of death of applicant's husband namely Prakash @ Prakashrao Sakharam Paithankar is not found in the birth-death register of said Nagarparishad. Said certificate is produced by applicant vide Exh.05. This again supports the averments of applicant about the fact that the intimation of death of applicant's husband namely Prakash @ Prakashrao Sakharam Paithankar was remained to be notified with the concerned authority.

06. Section 13(3) of the Registration of Birth and Death Act, 1969 and Maharashtra Registration of Birth and Death Rules, 1976 provides as under :-

“Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class or a Presidency

magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.”

07. In this regard the Hon'ble Madras High Court in case of Velu vs Madathi, AIR 1992 Mad 224, in para 8, observed as:

“The very fact that no particular procedure is prescribed for the verification would imply, that the Judicial Magistrate is concerned with under S.13(3) of the Act is, verification of the correctness of the birth or death. Sub-sec. (3) as it stands, does not contemplate the learned Magistrate to verify the correctness of the date of birth or death or to hold an inquiry in the event of a dispute over the exact date of birth or death. The verification has to relate only to the correctness of the fact of birth or death. In other words, the learned Magistrate will have to be satisfied, that the birth or death had in fact taken place. Deciding the exact date of birth or death in the case of a dispute regarding the date, is beyond the scope of S. 13(3).”

08. As such, it is very much clear that, after verifying the correctness of death, such entry can be taken into the record. In this respect in view of the provisions, the ratio of **Velu's case** cited supra, averments which are made and supported by affidavit and documents on record the date of death of applicant's husband namely Prakash @ Prakashrao Sakharam Paithankar fact of his death is very much appeared. However, entry to that effect has not been taken, Hence, law provided that same can be taken.

09. Moreover, Section 15 of the Act has provided that if any entry is found erroneous, same can be cancelled or corrected and it is always open for anybody to agitate the claim and then get the required declaration from the competent Civil Court. Hence, the finding as to point No.1 is recorded as affirmative and in answer to point No. 2 pass the following order.

ORDER

1. Application is hereby allowed.
2. Registrar, Birth & Death, N.P., Bhokardan, Tal. Bhokardan. Dist. Jalna is hereby directed to take necessary entry of death of applicant's husband namely Prakash @ Prakashrao Sakharan Paithankar (प्रकाश उर्फ प्रकाशराव सखाराम पैठनकर) Dtd.28/02/2014 on payment of requisite fee as per the Maharashtra Registration of Birth and Death Rules, 1973.
3. It is made clear that, said entry be taken subject to any declaration from the competent Civil Court.

Date:-25/09/2023.
Place: Bhokardan.

(C. S. Deshpande)
Judicial Magistrate F. C.,
Court No. 2. Bhokardan.

C E R T I F I C A T E

I affirm that the contents in the P.D.F. file are word
to word as per original order.

Name of Jr. Clerk : S. D. Shinde.

Name of Court : Judicial Magistrate (F.C.)
Court of No.2, Bhokardan.

P.F.D. Date : 25/09/2023.

Sd/-
Jr. Clerk