

KABI600010922023



IN THE COURT OF THE CIVIL JUDGE & JMFC AT: SANDUR

Present: Sri. Devaraddy, B.A. LL.B, LL.M.,

Civil Judge & J.M.F.C., Sandur.

CrI. Misc. No: 459/2023

Dated on this the 2nd day of March 2024

PETITIONER : Kenchamma W/o Gadde Nagappa, aged about 75 years, agriculturist R/o U. Rajapura village, Sandur Taluk, Ballari District.

(By Sri. H. Bharmareddy, Advocate)

V/S

RESPONDENT The Tahasildhar cum Births and Deaths Registrar, Taluk Office, Sandur, Sandur Taluk, Ballari District.

(Exparte)

* * *

ORDER

This is the petition u/s 13(3) of Birth and Death Registration Act, filed by the petitioner with a prayer to direct the respondent to issue Death Certificate of **Yaremma W/o Channabasappa** as on **01.06.1970**.

The brief facts of the case are as hereunder:

2. It is stated that, deceased Yaremma W/o Channabasappa is the mother of the petitioner, she was died on 01.06.1970 at U. Rajapura village, Sandur Taluk, Ballari District. The petitioner has not informed about date of death of her mother to the concerned authority for entering the same in the death register immediately after her death. But the petitioner has approached the respondent's office to get the death certificate of her mother but the respondent has issued an endorsement Dt. 29.12.2022 and intimated her to approach the Court for necessary orders.

3. It is stated that, the petitioner only legal heir of deceased and non registering the death date of her mother is not intentional one but it was a bonafide one. Her mother's death certificate is required for effecting the mutation of property.

4. On service of notice, the respondent remained absent and hence placed ex-parte.

5. The petitioner in order to prove her case, the petitioner

herself appeared before the court and gave her evidence as PW-1 and got marked 5 documents at Ex-P1 to P5.

6. Heard the arguments, perused the entire records.

7. The points that arise for consideration are as hereunder:

1. Whether the petitioner is entitled for the relief claimed in the petition?

2. What order?

8. My answer to the above points are as hereunder:

Point No-1 : In the **Affirmative.**

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

REASONS

Point No-1 :

9. In order to prove the case of the petitioner, the petitioner herself examined as PW-1. She files affidavit in lieu of her chief-examination. She reiterated the contents of the petition in the affidavit of her chief-examination. She also

adduced the documents and the said documents marked as Ex.P1 to 5. Ex.P1 is the Non-availability certificate, Ex.P2 is the notarized copy of affidavit of Genealogical tree, Ex.P3 is the paper publication i.e., Hosa Digantha dated 14.12.2023, Ex.P4 is the paper publication i.e., Ballari Belagaithu dated 14.12.2023 and Ex.P.-5 is the copy of Aadhar card.

10. In the chief-examination, the PW-1 has stated that her mother by name Yaremma W/o Channabasappa was died on 01.06.1970 in U. Rajapura village, Sandur Taluk, Ballari District. She had informed the same to the concerned revenue authority to enter the same in the concerned register. Later, she has filed an application seeking death certificate of Yaremma W/o Channabasappa it was wanted to produce before the concerned authorities. The respondent gave a non-availability certificate rejecting the application for the reason no entry in the Death Register regarding death date of Yaremma W/o Channabasappa.

11. She has also deposed, if the Death Certificate is not issued she will be put great hardship. The respondent being ex-

parte, the cross-examination of PW-1 remained unchallenged. The chief evidence and the case of the petitioner remained unchallenged and undisputed. The oral evidence of the petitioner and documents i.e., Ex-P1 the non-availability certificate given by the respondent, which shows that the date of death of deceased Yaremma W/o Channabasappa, was not entered in the concerned register and Ex-P3 and Ex.P4 Paper publications shows that after paper publication no one appeared and challenged the same.

12. It is also well settled that in a proceeding under Section 13(3) of Registration of Births and Deaths Act, Court is concerned with the factum of birth or death and date of birth or death is not relevant. This proposition finds support from the ratio laid down by Hon'ble High Court of Karnataka in **2000(4) KCCR (State of Karnataka Vs. Smt. Annakka)** which reads thus:

***“REGISTRATION OF BIRTHS AND DEATHS ACT,
1969-***

***Section 13(3)- Direction to make an entry in the
Birth Register by the Magistrate-Challenged on***

the ground that except the statement of applicant on oath there was no other material.

Held: The Magistrate in a proceeding under Section 13(3) only ascertains the birth of the child and date is not the material consideration as such directions bind only the Registration office under the Act to make an entry and does not carry higher probative value.

13. The documentary evidence also corroborated with the petition's contents. Therefore, this court has no grounds to reject the petition. Hence, Point No.1 is answered in the **Affirmative.**

Point No - 2 :

14. For the reasons discussed above, this court proceed to pass the following:

ORDER

The petition filed u/s 13(3) of Birth and Death Registration Act, by the petitioner is hereby allowed.

The respondent is hereby directed to enter the date of death of **Yaremma W/o Channabasappa R/o U. Rajapura village, Sandur Taluk, Ballari District,** as

01.06.1970, in the death register and issue death certificate to the petitioner accordingly after collecting necessary fee from her.

[Dictated to the stenographer on computer and typed by him, corrected and then pronounced by me in the open court on this day of **2nd day of March, 2024**]

(DEVARADDY)

Civil Judge & JMFC.,
Sandur.

ANNEXURE

Witnesses examined on behalf of Petitioner:

PW-1 : Kenchamma.

Documents exhibited on behalf of petitioner:

Ex.P.1 : Non-availability certificate.

Ex.P.2 : Notarized copy of affidavit of genealogical tree

Ex.P.3 & 4 : Two paper publications.

Ex.P.5 : Copy of aadhar card.

Witnesses examined on behalf of respondent:

- Nil -

Documents exhibited on behalf of Respondent.

- Nil -

**Civil Judge & JMFC,
Sandur.**