

**IN THE COURT OF THE XXV ADDL.CHIEF
METROPOLITAN MAGISTRATE, BANGALORE CITY.**

Dated this the 26th day of September, 2023

**Present: Smt Sujata Sidagouda Patil,
B.SC.,LL.B.**

**XXV Addl. Chief Metropolitan Magistrate,
Bangalore.**

Crl.MISC.No.5043/2023

Petitioner : Hanumantharayappa,
S/o.Chennigappa,
Aged about 56 years,
R/at No.297-1, Hegganahalli,
Bangalore-560091.
(By UM&SS- Advocate)
- Vs -
Respondent : The Commissioner of
BBMP, Birth & Deaths,
Bengaluru.

ORDER

The Petitioner has filed the petition U/s.13(3) of Birth and Death Registration Act, 1969.

2. Brief facts of the Petitioner case is as follows :

The Petitioner by name Hanumantharayappa S/o.Chennigappa and Hanumakka was born on 20.04.1967 at No.297-1, Hegganahalli, Bangalore-560091. Due to lack of knowledge of legal procedure, the date of birth of the Petitioner is not intimated to concerned authority. The said fact has come to the knowledge of the Petitioner recently. Immediately, the Petitioner approached the Respondent to issue the certificate. The Respondent has issued non-availability certificate. The birth certificate of the Petitioner is necessary for bona fide use. Therefore, the Petitioner is constrained to file the petition.

3. The notice served to the Respondent. The Respondent failed to appear before the court and not filed any objection. Therefore, the Respondent is placed exparte.

4. Now, the following points arise for due consideration. :

1. Whether the Petitioner has made out sufficient grounds to allow the petition?
2. What order?

5. My findings on the above point is in the “[Affirmative](#)”, for the following :

: REASONS :

6.Point No.1 : The Petitioner has filed the petition against the Respondent U/s.13(3) of Birth and Death Registration Act. The Petitioner has contended that he was born on [20.04.1967 at No.297-1, Hegganahalli, Bangalore-560091](#). It is further contended that the fact of [birth](#) is not reported to the Respondent due to lack of knowledge of legal procedure. In support of the petition contention, the Petitioner [himself](#) examined as PW 1 and reiterated the petition averments. The Respondent has not chosen to file objections. Therefore, the oral evidence of PW1 remains unchallenged.

7. In support of the oral evidence, the Petitioner has produced the Notarized copies of the SSLC Marks Card, Ration Card and DL as [Ex.P.2 to Ex.P.4](#). The documents on record clearly reveal that the [Petitioner](#) was born on [20.04.1967](#). Admittedly, the date of birth is not mentioned in the concerned register. The Commissioner has issued non-availability certificate. That document is marked as [Ex.P.1.s](#)

8. According to the petitioner he was born on [20.04.1967 at No.297-1, Hegganahalli, Bangalore-560091](#). Now the question arises

that whether Registration of Births and Deaths Act, 1969 is applicable to the present petition. In the judgment reported in **ILR 2003 KAR 4787 Smt Devamma V/s. Registrar of Birth and Death , Mysore** , the Hon'ble High Court of Karnataka held as under :

“The provisions of Section 13(3) governed even situations of the nature where death or birth had taken place before the provisions of this Act came into force. It is incumbent upon the Magistrate to consider the application made under Section 13(3) and pass an order after verification of the correctness of the same. The question of the Magistrate holding that a petition of this nature is not maintainable because it relates to an incident prior to the date of the Act coming into force such situations have been expressly taken care of and are governed by the provisions of Section 13(3) of the Act. On a conjoint reading of the provisions of the 1886 Act and the provisions of the present Act, particularly in the light of Sections 29 and 31 of the present Act, it has to be held that an application before the Magistrate for the purpose of passing an order to enable the Registering Authority to record a birth or death that had taken place beyond the period of year from the date of intimation should necessarily be entertained and should be ordered.

I have gone through the principles laid down in the above case . As per the principles laid down in the above case, even if the person is born before Registration of Births and Deaths Act, 1969, the provision of Births and Deaths and Marriages Registration Act, 1886 is applicable and if there are other provisions in 1886 Act which are not covered under the present Act, they continue to remain in force. Therefore, the principles of the above case is amply applicable to this case.

9. The birth of the Petitioner is not in dispute. The date of birth was not mentioned in the concerned register which is proved

by the petitioner by producing non availability certificate issued by BBMP. The Petitioner has given specific explanation for non-reporting the said fact to concerned authority well within time. Therefore, the court can exercise the power under Sec.13(3) of Births and Deaths Act, to pass suitable order. The Petitioner has produced relevant documents in support of date of birth. In such circumstances, the Petitioner has proved the petition averments. There is no ground to reject the Petitioner contention. Therefore, the Petitioner has made out sufficient grounds to allow the petition. Accordingly, my answer to Point No.1 is in the Affirmative.

9. Point No.2 : In view of the aforesaid reasons, I proceed to pass the following:

ORDER

The petition filed by the Petitioner U/S 13(3) Registration of Birth and Death Act is hereby allowed.

The respondent is hereby directed to enter the birth of Petitioner by name Hanumantharayappa S/o Chennigappa and Hanumakka at No.297-1, Hegganahalli, Bangalore-560091 as 20.04.1967 and issue birth certificate thereon to the Petitioner after collecting late requisite fee.

(Dictated to the Stenographer directly on the computer and print out taken by her, corrected and signed by me and then pronounced in the open Court on this [the 26th day of September, 2023](#))

**(SUJATA SIDAGOUDA PATIL)
XXV A.C.M.M., BANGALORE**

ANNEXURE**List of Witnesses examined for the Petitioner :**

PW.1 : Hanumantharayappa

List of Witness examined for the Respondent :

Nil

List of Documents marked for the Petitioner :

Ex.P1 : Endorsement issued by the
Commissioner, BBMP.
Ex.P2 : N.C of the SSLC marks Card.
Ex.P3 : N.C. of the Ration Card
Ex.P4 : N.C. of the DL.

List of Documents marked for the Respondent :

Nil

(SUJATA SIDAGOUDA PATIL)
XXV A.C.M.M., BANGALORE.

