

IN THE COURT OF THE XV ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE, BENGALURU CITY

Dated:- This the 19th day of July, 2023

Present: Sri.N.M.RAMESHA,
XVI Addl.C.M.M., Bengaluru
City & C/c of XV ACMM,
Bengaluru.

Case No. : **C.Misc.No.4320/2023**

Petitioner : I Joseph
S/o Ignasiyappa
Aged about 75 years,
R/at No.40, 4th Cross,
Chikkadugodi,
Dharmaram College,
Bangalore-560 029.

(By Sri. Harish. J., Adv.,)

- Vs -

Respondent : **The Commissioner,**
Registrar of Births & Deaths
BBMP, Bangalore.

(By Smt. Girija.B., Adv.,)

Date of order : 19.07.2023

ORDER

The Petitioner has filed this petition U/s 13(3) of
Karnataka Registration of Births and Deaths Act 1969

to direct the respondent to enter the date of birth of petitioner as 09.09.1948 in the concerned birth register and to issue birth certificate.

2. The case of the petitioner in brief is as under:-

The petitioner was born on 09.09.1948. He is in need of his birth certificate for the documentation purpose, But due to lack of knowledge and information, the petitioner did not inform his birth to the respondent. Now he needs his birth certificate. When he approached the respondent seeking birth certificate of him, the respondent issued Non availability certificate. Hence this petition.

3. On service of notice, the respondent has appeared before this court through his learned counsel and has filed objections denying the material averments made in the petition. The petitioner has been called upon to prove the material averments made in the petition. The material averments made in the petition are not within the knowledge of respondent. The petition is stated to be misconceived. The Petitioner has not produced any supportive documents to prove his case. The relief sought in the petition is stated to be not maintainable. The alleged cause of action is stated to be imaginary. The documents

produced by the Petitioner are all created and insufficient to grant the relief claimed in the petition. It is on these grounds, the respondent has prayed for dismissal of the petition.

4. In order to prove his case, the Petitioner got himself examined as PW-1 and got the documents marked as **Ex.P1 to P.3**. The respondent did not choose to adduce any evidence on his behalf.

5. I have heard the arguments of learned counsel for both the sides and perused the oral and documentary evidence placed on record.

6. Now the points that would arise for my consideration are as under:-

1. Whether the petition filed by the petitioner under the provisions of Sec.13(3) of the Karnataka Registration of Births and Deaths Act is deserves to be allowed?
2. What Order?

7. On considering the evidence on record, now my answer to the above points are as under:

Point No.1: In the Affirmative

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

R E A S O N S

8. **POINT No.1**: The petitioner has filed this petition under the provisions of Sec.13(3) of Karnataka Registration of Births and Deaths Act of 1969 seeking direction to the respondent to enter his date of birth as 09.09.1948 in the concerned Birth Register.

9. The petitioner has filed his affidavit in chief examination wherein he reiterated and reaffirmed the contents of the petition. The petitioner has produced Non-availability certificate and Notarized copies of Pan Card and Election ID card of himself and they are marked as per **Ex.P.1 to P.3** through the evidence of PW.1.

10. PW-1 in his cross-examination has denied the suggestion that the documents produced by him are all fake documents. Further, he has denied the suggestion that he is deposing false evidence before the court. However, the respondent has not adduced any oral evidence and also not produced any documentary evidence on his behalf.

11. On the other hand, the documents produced by the Petitioner as per **Ex.P1 to P3** reveals that, the date of birth of the **Petitioner namely I Joseph, S/o.**

Ignasiyappa and Smt. Mariamma is 09.09.1948. But it has not been entered in the concerned register. The date of birth of the petitioner is mentioned as 09.09.1948 in the public documents. The date of birth as sought for in the petition and the date of birth as mentioned in the public documents at Ex.P.2 & 3 are one and the same. Hence, there are no reasons to disbelieve or to discard the oral evidence of PW.1 and documentary evidence at Ex.P.1 to P.3. Under these circumstances, if the respondent is directed to enter the date of birth of the petitioner as 09.09.1948 in the concerned register and then to issue the birth certificate to the petitioner, then it would meet the ends of justice. Therefore the petition is deserves to be allowed. Hence for the reasons discussed above, I answer Point No.1 in the Affirmative.

12. POINT No.2: In view of my findings on point No.1, I proceed to pass the following:-

O R D E R

The petition filed by the petitioner under the provisions of Sec.13(3) of Karnataka Registration of Births and Deaths Act 1969 is hereby allowed.

The Respondent is hereby directed to enter the date of birth of **Petitioner namely I Joseph S/o. Ignasiyappa and Smt. Mariamma is 09.09.1948** and issue the Birth Certificate of the Petitioner, after collecting the prescribed fee, as per law.

This order and direction issued to respondent is binding on the parties to the proceedings only.

(Directly dictated to the stenographer online, printout taken by her, verified, corrected and then pronounced by me in the open Court on this the 19th day of July, 2023).

(SRI.N.M.RAMESHA),
XVI ACMM, Bengaluru City.

ANNEXURE

1. List of witness/s examined on behalf of the Complainant:-

P.W.1 : Sri. I Joseph

2. List of documents exhibited on behalf of the Complainant:-

Ex.P.1 : Non-availability Certificate

Ex.P.2 : Notarized copy of the Pan card of PW.1

Ex.P.3 : Notarized copy of the Election ID card of PW.1

3. List of witness/s examined on behalf of the Accused:-

- Nil-

4. List of documents exhibited on behalf of the Accused:-

- Nil-

(SRI.N.M.RAMESHA),
C/c of XV ACMM, Bengaluru City.

19.07.2023

**Order pronounced in Open Court
(Vide separate order)**

O R D E R

The petition filed by the petitioner under the provisions of Sec.13(3) of Karnataka Registration of Births and Deaths Act 1969 is hereby allowed.

The Respondent is hereby directed to enter the date of birth of **Petitioner namely I Joseph S/o. Ignasiyappa and Smt. Mariamma is 09.09.1948** and issue the Birth Certificate of the Petitioner, after collecting the prescribed fee, as per law.

This order and direction issued to respondent is binding on the parties to the proceedings only.

C/c XV ACMM, Bengaluru City.

