

MHKO160008012022 	<u>ORDER BELOW EXH.01 IN</u> <u>CRI.M.A.NO.192/2022</u>
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01. This is an application for taking entry of death of applicant's brother Rajendra Dattatraya Miraje. It is stated that Rajendra Dattatraya Miraje died on 04/11/1979 at Mouje Bambawade, Tal. Shahuwadi, Dist Kolhapur. However, fact of his death was remained to be noted in the relevant Government Register. Hence, it is prayed that concern authority be directed to take entry of death of Rajendra Dattatraya Miraje in the relevant register.

02. A public citation was issued calling objection of public at large for taking entry of death of applicant's brother Rajendra Dattatraya Miraje as prayed in the application. However, none appeared and raised any objection to it.

03. The opponent has filed their say at Exh.10 and he admitted that there was no entry of death of Rajendra Dattatraya Miraje in the year 1979 in the record of the Gram Panchayat Bambawade, Tal. Shahuwadi, Dist. Kolhapur.

04. Perused the application and accomplished affidavit and following points arise for determination to which findings are recorded with the reasons given below.-

Sr.No.	Points	findings
1)	Whether the applicant has established that his brother Rajendra Dattatraya Miraje is died on 04/11/1979 ?	Yes
2)	What Order ?	Application is allowed

REASONS :-

05. The applicant has filed his affidavit of evidence at Exh.11, wherein

he has stated his case as per application at Exh.1. Applicant has also relied upon the public notice at Exh.09, letter of opponent at Exh.04. Moreover, it is stated that due to illiteracy, fact of death of Rajendra Dattatraya Miraje was remained to be notified with the concern authority.

06. It appears that opponent has intimated that no such a entry of death of applicant's brother Rajendra Dattatraya Miraje is found in the available record. It again supports the averments of applicant about the fact that intimation of his brother Rajendra Dattatraya Miraje was remained to be notified with the concern authority.

07. Section 13(3) of the Registration of Birth & Death Act, 1969 and Maharashtra Registration of Birth & 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 Magistrate of First Class or a Presidency Magistrate after verifying the correctness of the Birth or Death and on payment of the prescribed fee.”

08. In ther regard, the Hon'ble Madras High Court in case of **Velu Vs. Madathi A.I.R. 1992 Mad. 224** in Para 8 observed that,

“the very fact that no particular procedure is prescribed for verification would imply that the Judicial Magistrate is concerned with under Section 13(3) of the Act is, verification of the correctness of the birth or death. Sub-Section 3 as it stands, does not contemplate the learned Magistrate to verity the correctness of 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 the 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 Section 13(3).”

09. As such, it is very much clear that after verifying the correctness of death, such entry can be taken into the record. In their respect, in view of the provisions, the ration of Velu's case cited above, averments which are made and supported by affidavits and documents, on record regarding the date of

death of applicant's brother namely Rajendra Dattatraya Miraje, fact of his death is very much appeared. However, entry to the effect has not been taken, hence, law provided that such can be taken.

10. Moreover, Section 15 of the Act provided that if any entry is found erroneous, same can be canceled 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, I have recorded positive finding to point no. 1 and in answer to point no. 2, I have pass the following Order.

ORDER

01. Application is allowed.
02. The Registrar, Death-Birth and Wedding, Gram Panchayat Office Bambawade, Tal. Shahuwadi, Dist. Kolhapur is hereby directed to take necessary entry of death of applicant's brother namely Rajendra Dattatraya Miraje upon the payment of requisite fee as per the Maharashtra Registration of Birth & Death Rules, 1976.

Shahuwadi
Date : 09/01/2023

(Amol Shriram Shinde)
Judicial Magistrate First Class,
Malkapur-Shahuwadi

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file judgment are same, word to word, as per the original judgment.

Name of the Stenographer	P.A. Vasudeo
Name of Court	Amol Shriram Shinde, C.J.J.D & J.M.F.C. Malkapur-Shahuwadi
Date of Dictation	09/01/2023
Judgment signed by the P.O.on	09/01/2023
Judgment uploaded on	09/01/2023