

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

Present : Sri. P. Shivaraj,

B.Com. LL.B.

XXXVIII ADDL.C.M.M., BANGALORE

Dated this the 1st day of December – 2022

Crl. Misc.6291/2022

Pettioners:

Smt.Salma Taj
C/o.M.G.Meharaj
r/o.Koli Farm Site, Hemmigepura Road
7th Cross, Chattupalya, Kengeri Hobli,
Bengaluru-560 060

(By Smt.Latha.N, Advocate)

// Vs. //

Respondents:

Registrar of Births & Deaths,
Office of the Commissioner,
BBMP,
Bengaluru.

(Ex -party)

O R D E R

The petitioner has filed this petition U/sec. 13(3) of Registration of Birth and Death Act 1969. alleging that, her son by name **Zaid Khan and he was born on 15/12/2016.** As the petitioner and her family members were ignorant about the legal procedure of reporting and registering her son's date of birth before the competent authority. Further the petitioner approached the respondent to get her son's birth certificate. The respondent has given Non-availability certificate. Now,

petitioner is intending to register the event of birth of her son in the records maintained by the respondent, as she is in need of her son's birth certificate for educational purpose.

2. After registration of the petition, notice was issued to respondent and it was duly served, but respondent does not chose to appear before this court and he placed ex party. Petitioner examined her self as PW.1 and Ex.P.1 to Ex.P5 are marked. Cross of PW1 taken as nil, as respondent remain ex party. Respondent evidence is also taken as nil.

3. I have heard the arguments and perused the records.

4. Now following points would arise for my consideration:

1) Whether the petitioner has made out sufficient grounds to allow the petition?

2) What order?

5. My answer to the above points is as under:

Point No.1: In the affirmative,

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

REASONS

6. **POINT No.1:-** PW1 being the petitioner, she reiterated the petition averments in her examination in chief. Ex.P1 is the non availability certificate of non registration of date of birth of petitioner's son issued by the respondent. Ex.P2 and P3 are the copies of Aadhar Card of Petitioner and her husband. Ex.P4 is the copy of PAN card of petitioner's husband and P5 is the copy of NPS card of petitioner. Ex.P2 to 5 are issued from the competent authority and its genuinenety cannot be doubted and deserved to be accepted.

The oral testimony of Pw1 reveals that, **Zain Khan** is the son of petitioner and he was born on **15/12/2016**. In **State of Karnataka Vs. Smt. Annakka** reported in **ILR 2000 Kar. 4770**, wherein Hon'ble High Court of Karnataka has held that, the oral testimony of petitioner is sufficient for the verification of date of birth sought under the petition.

7. The non-availability certificate issued by the respondent is marked as Ex.P1. It reveals that the petitioner's son date of birth was not registered in their records. Petitioner alleged that, she is intending to register the event of date of birth of her son, for educational purpose. The purpose of filing of this petition and the documentary evidence on records remains un impeached and unbuttered and same cannot be doubted and deserve to be believed. Further it is settled principle of law that, the entry of date of birth or death of a person, in the register of Birth or death is not a conclusive evidence of disputed date of birth or death. It is also true that this Order binds only the concerned Registrar of Birth or death and not others. Accordingly after verifying the correctness of date of birth of the petitioner son, based on oral testimony of her mother, **I am answering this point in the affirmative.**

8. POINT No.2: For these foregoing reasons stated above to point No.1, I proceed to following:-

ORDER

The petition filed by the petitioner is allowed.

Respondent is hereby directed to register/enter the date of birth of petitioner son that is **he was born on 15/12/2016** in their register and issue birth certificate to the petitioner by collecting necessary fees if any.

[Dictated to the stenographer directly on computer, corrected by me. and then pronounced by me in the open court on 1st December 2022].

(P. SHIVARAJ)

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ANNEXURES:

1) No. of witnesses examined on behalf of the petitioner/s:

PW-1 : Smt. Salma Taj C/o.M.G.Meharaj Khan

2) No. of documents marked on behalf of the petitioner/s:

Ex.P1 : The Non availability certificate.

Ex.P2,3 : Aadhar Card of Petitioner and her husband.

Ex.P.4 : Copy of PAN card of petitioner's husband.

Ex.P.5 : Copy of NPS card of petitioner.

3) No. of witnesses examined on behalf of the respondent/s:

- NIL -

4) No. of documents marked on behalf of the respondent/s:

- NIL -

(P. SHIVARAJ)

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Orders pronounced in the open court vide separate orders.
The operative portion of the order reads thus;

ORDER

The petition filed by the petitioner is allowed.

Respondent is hereby directed to register/enter the date of birth of petitioner son that is **he was born on 15/12/2016** in their register and issue birth certificate to the petitioner by collecting necessary fees if any.

(P. SHIVARAJ)

XXXVIII A.C.M.M. B'LURU.