

IN THE COURT OF THE XV ACMM, BENGALURU

Dated this the 16th day of December 2022.

**Present: Sri Lokesh D. Havale, B.A, LLB.,
XVth ACMM, Bengaluru**

Crl.Misc.No.6703/2022

Petitioners:- Mrs. Valli,
W/o late Veerabathiran Duruvasan.,
Aged about 37 years,
R/at No.26/1, Ward No.7,
Muniswamy Building, Near Ganesha Temple,
Singasandra, Hosur Road,
Bangalore- 560 068.

(By Mrs. Rama Prabha. N. Advocate)

V/S

Respondent:- The BBMP Commissioner
The Register of Birth and Deaths,
Bangalore.

(By Smt.G.B.Advocate)

ORDER

The petition is filed by the petitioner U/S 13[3] of the Birth and Death Registration Act praying to direct the respondent to make an entry of date of death of husband of the petitioner by name Late Veerabathiran Duruvasan S/o late Duruvasan, died on 03.09.2021 R/at No.26/1, Ward No.7, Muniswamy Building, Near Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068 in the death register maintained by the respondent.

2. The petitioner in her petition contended as follows:

i] She is the permanent residents of No.26/1, Ward No.7, Muniswamy Building, Near Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068.

ii] By oversight, inadvertence and bonafide mistake, the date of death of death of husband of the petitioner by name Late Veerabathiran Duruvasan, S/o late Duruvasan, died on 03.09.2021 at No.26/1, Ward No.7, Muniswamy Building, Near Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068. As such, there is no entry in the concerned death register maintained by the respondent.

iii] The petitioner knew this fact only recently when she went to get her husband death certificate. Hence, prayed to allow the petition.

3. The paper publication was issued to be published in two news papers and it was published by the petitioner calling for objections if any to the petition. The court issued notice to the respondent. Pursuant to the service of notice, the respondent appeared through his counsel and filed objections denying the averments made in the petition stating that the death of the petitioner is not within the limits of BBMP and false petition has been filed by creating the documents. Hence prayed to dismiss the petition. Even after giving time for the appearance after publication, no one appeared before the court and contested the petition.

4. The petitioner got examined herself as PW.1 and she filed affidavit in lieu of her chief-examination and got marked the documents as

per Ex.P.1 to P.7. On the other hand the respondent did not lead any evidence.

5. The points that arise for the consideration of this Court are:

1] Whether the petitioners have made out grounds to register the date of death of Late Veerabathiran Duruvasan S/o late Duruvasan as 03.09.2021 in the register maintained by respondent??

2] What Order?

6. The finding of the Court on the above points are as under:

Point no. 1] In Affirmative.

Point no.2] As per final order for the following,

REASONS

7. **Point no.1**: In her affidavit, the petitioner sworn that she is the permanent resident of No.26/1, Ward No.7, Muniswamy Building, Near Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068. By oversight, inadvertence and bonafide mistake, the date of death of death of husband of the petitioner by name Late Veerabathiran Duruvasan, S/o late Duruvasan, died on 03.09.2021 at No.26/1, Ward No.7, Muniswamy Building, Near Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068 was not brought to the notice of the respondent. As such, there is no entry in the concerned death register maintained by the respondent. The petitioner knew this fact only recently when she went to get her husband death certificate. Hence, prayed to allow the petition. The petitioner produced and got marked the non-availability certificate as per Ex.P.1. In the said document, the date of death of Late Veerabathiran Duruvasan.,

S/o. late. Duruvasan is stated to have not been registered as 03.09.2021 in the office of the respondent.

8. The petitioner also got marked the notice published in respect of the petition in two news papers as per Ex.P.6 and Ex.P.7. Ex.P.6 is the Indian Express English news paper, wherein the notice was published. Ex.P.7 is the Hosadigantha Kannada news paper, wherein the notice was published. Even after the publication, no one contested the petition. Ex.P2 is the Medical Certificate of cause of death issued by Sri. Balaji Clinic, Mysore road, Bengaluru. Ex.P3 is the notarized copy of Aadhaar card of petitioner. Ex.P4 is the notarized copy of Aadhaar card of deceased. Ex.P5 is the notarized copy of rent agreement, which are verified with the originals at the time of marking. Petitioner submitted that the death certificate of the deceased is necessary for documentation purpose.

9. On perusal of the affidavits and the documents produced by the petitioner, it appears that the petitioner do not have any malafide intention. The enquiry in this case is made in respect of verification of date of death and the documents on record depict the date of death of husband of the petitioner as 03.09.2021 and therefore this Court is satisfied that the date of death of the husband of petitioner is 03.09.2021. Moreover an entry in the register of births or deaths is not conclusive evidence of the disputed date of birth or death so also an entry pursuant to the directions of the Magistrate under Section 13(3) of RBD Act. The order of the Magistrate binds only the Registrar and not others Hence, it is just and necessary to direct the respondent to enter the date of death of the husband of the petitioner by name Late Veerabathiran Duruvasan S/o. late Duruvasan, died on 03.09.2021 at No.26/1, Ward No.7, Muniswamy Building, Near

Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068, in the death register maintained by the respondent. Hence, this Court answered the above point no.1 in Affirmative.

10. Point no.2: In view of the above reasons given on point no.1, this Court proceeds to pass the following:-

ORDER

The petition filed by the petitioner u/s 13[3] of the Birth and Death Registration Act is allowed with no order as to costs.

The respondent is hereby directed to enter the date of death of the husband of the petitioner by name Veerabathiran Duruvasan S/o late Duruvasan R/at No.26/1, Ward No.7, Muniswamy Building, Near Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068 died on 03.09.2021 in the death register and to issue the death certificate to the petitioners as per law.

(Fed to the Laptop computer to my dictation by the Stenographer, after verified by me, print taken by him and after signed by me, pronounced in the Open Court dated this the 16th day of December, 2022)

[Lokesh D. Havale]
XVth ACMM, Bengaluru.

ANNEXURE:

List of witnesses examined on behalf of Petitioner:

PW1: Smt. Valli

List of documents exhibited on behalf of petitioner:

- Ex.P1 : Non-availability certificate.
- Ex.P2 : Notarized copy of Medical report
- Ex.P3 : Notarized copy of Aadhaar card of petitioner
- Ex.P4 : Notarized copy of Aadhaar card of deceased
- Ex.P5 : Notarized copy of Rent agreement
- Ex.P6 : Indian Express Newspaper
- Ex.P7 : Hosadigantha Newspaper

List of witness and documents exhibited for respondent:

-Nil-

XVth ACMM, Bengaluru.

16.12.2022

Order pronounced in open Court vide separate order.

ORDER

The petition filed by the petitioner u/s 13[3] of the Birth and Death Registration Act is allowed with no order as to costs.

The respondent is hereby directed to enter the date of death of the husband of the petitioner by name Veerabathiran

Duruvasan S/o late Duruvasan R/at No.26/1, Ward No.7, Muniswamy Building, Near Ganesha Temple, Singasandra, Hosur Road, Bangalore- 560 068 died on 03.09.2021 in the death register and to issue the death certificate to the petitioners as per law.

XVth ACMM, Bengaluru.