

IN THE COURT OF THE XV ACMM, BENGALURU**PRESENT: Smt. Namrata Rao.K.S**

B.A.L, L.L.B., M.B.L.,
XV ACMM,.
BENGALURU.

Dated: This the 26th day of October, 2023**C.Misc.No.4766/2023****PETITIONER:****Charith. S.P**

Rep by his /their
Natural Guardian
Shivananda.

R/at No.112, 7th Main road,
Nagarbhavi Main Road,
Govindaraja Nagar,
Bengaluru- 560 079.

**(By Sri. Manjunath. B.,
Advocate)**

V/s**RESPONDENT:**

The Chief Registrar of
Births & Deaths
The Commissioner/Tahsildar
BBMP, Bengaluru.

(By Smt. Girija. B., Advocate)

O R D E R S

This petition is filed by the petitioner U/Sec.13 (3) of Birth and Death Registration Act, seeking Birth Certificate of son of petitioner by name Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi. S.

2. The case of the petitioner in brief is that, the petitioner's son by name Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi. S, who was born on 25.07.2019 at No.112, 7th Main Road, Nagarbhavi Main Road, Gonvindaraja Nagara, Bengaluru- 560 079. The factum of the birth of petitioner's son was not intimated to the Registrar of Birth and Death within time and therefore the petitioner son by name Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi.

S, was not registered in the records. The petitioner gave application to the respondent to issue Birth Certificate of his daughter. But the respondent has issued an endorsement dated:06.07.2023 stating that the entry is not forthcoming in the register maintained in the office of respondent. Hence, the Birth Certificate of the son of the petitioner is necessary to produce before the concerned authority. Hence, this petition.

3. On issuance of notice, the respondent appeared through his counsel and filed objections denying the averments made in the petition stating that the birth 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.

4. On perusal of the materials on record, the following points arise for my consideration :

1. Whether the petitioner has made out sufficient grounds to show that Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi. S was born on 25.07.2019?

2. What order?

5. To substantiate his claim the petitioner has examined himself as PW.1. Documents marked at Ex.P1 to Ex.P4 are the marked through the PW.1.

6. My answers to the above points are as follows:

Point No.1 : In the Affirmative

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

REASONS

7. **POINT No.1:** - The petitioner's son by name Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi. S was born on

25.07.2019. The factum of birth of the petitioner's son was not intimated to the registering authority by the petitioner's parents. It is exfacie clear that, it is only now this petition is filed.

8. Section 13(3) of the Registration of Birth and Death Act empowers a magistrate to pass an order directing the authority to register the birth after due enquiry. A duty is cast upon the magistrate to pass the order after making due enquiry of the birth or death as case may be.

9. On application by the petitioner, The Commissioner of BBMP, Registrar of Births and Deaths, Bengaluru, the proper authority issued an endorsement that the birth of petitioner's son by name Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi. S. is not registered in the relevant registers.

Ex.P1 is the non availability certificate, Ex.P2 is the thayi card, Ex.P3 & 4 are the copies of Aadhaar cards. The petitioner has deposed on oath. Hence, I found no reason to disbelieve the case of the petitioner. On the careful perusal of the materials on record and the provision of law I am inclined to allow the petition and hold that the petitioner's son by name Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi. S was born on 25.07.2019. Accordingly, I answer point No.1 in the affirmative.

10. **Point No.2:-** As per discussion made above, I proceed to pass the following;

O R D E R

The petition is allowed.

The Commissioner of BBMP, Registrar of Births and Deaths, Bengaluru is hereby directed to register the birth of petitioner's son by name Charith. S.P S/o Sri. Shivananda and

Smt. Nethravathi. S as 25.07.2019 in the relevant registers and make an endorsement that the entry is made after this order.

(Directly dictated to the Stenographer over computer, typed by her, corrected by me and then pronounced in the open court, on this, the 26th day of October, 2023)

(Namrata Rao K.S)
XV ACMM, Bengaluru.

ANNEXURE

Witnesses examined for prosecution:

Pw.1 : Sri. Charith. S.P

Exhibits marked for prosecution:

Ex.P1 : Non-availability Certificate
Ex.P2 : Thai Card
Ex.P3 : Copy of Aadhaar Card of PW.1
Ex.P4 : Copy of Aadhaar card of wife of PW.1

Witness examined for defence: NIL

Exhibits marked for defence: NIL

(Namrata Rao K.S)
XVth ACMM, Bengaluru

26.10.2023

(Orders pronounced in the open court)

ORDER

The petition is allowed.

The Commissioner of BBMP, Registrar of Births and Deaths, Bengaluru is hereby directed to register the birth of petitioner's son by name Charith. S.P S/o Sri. Shivananda and Smt. Nethravathi. S as 25.07.2019 in the relevant registers and make an endorsement that the entry is made after this order.

(vide separate Order)

XVth ACMM, Bengaluru