

KASM310071462022



**IN THE COURT OF THE PRL. CIVIL JUDGE & J.M.F.C.,
BHADRAVATHI.**

Present

Sri. Yathisha.R., B.A.L, LL.B.
Prl. Civil Judge and J.M.F.C.,
Bhadravathi.

Crl.Mis.No.: 431/2022.

Dated, this the 1st day of December 2022.

PETITIONERS : 1. Gurumurthy.M
S/o Late Mallappa
Aged about 47 years,
R/o Thimlapura Main Road,
Thimlapura Village,
Bhadavathi Taluk.

2. Kumar M,
S/o Late Mallappa,
Aged about 50 years,
R/o Ubleybail Road,
Hiriyur Post,
Bhadavathi Taluk.

3. Smt.Lokeshamma,
W/o Late Mallappa,
Aged about 68 years,
R/o Thimlapura Village,

Bhadavathi Taluk.

(By Smt.BVH., Advocate)

V/s

RESPONDENT : The Birth and Death Registrar,
City Municipal Council,
Bhadravathi.

(Exparte)

**ORDER ON APPLICATION FILED U/Sec.13(3) OF
REGISTRATION OF BIRTHS AND DEATHS ACT 1969.**

This petition is filed seeking direction to the respondent to issue death certificate of Sri.Mallappa S/o Neelakantappa who died on 18.10.2005 at Thimlapura Village, Bhadravathi Taluk and to issue the same.

2. Brief facts of the case of the petitioners is as follows:

That, Sri.Mallappa S/o Neelakantappa who is the father of the petitioner No.1 and 2 and husband of petitioner No.3 died on 18.10.2005 at Thimlapura Village, Bhadravathi Taluk. Though the relatives were instructed to inform the authority concerned regarding the fact of death of Sri.Mallappa and to get the same entered in the register maintained by the authority, same has not been done. The death Certificate of Sri.Mallappa is required for the purpose of Genealogical tree of the family and other official purpose. As such, the respondent was approached seeking the same,

in response a Non-availability Certificate has been issued. Hence, this petition is filed.

3. In spite of due service of the notice on the respondent, the respondent remained absent. Hence, the respondent has been placed *exparte*. In spite of publication of notice in the News papers having wide circulation in the locality, none of the interested parties appeared to contest the petition. Hence, by treating that there are no such interested parties proceeded further in the petition.

4. In support of the petition, petitioner No.1 Gurumurthy M S/o Late Mallappa got examined himself as PW.1 by way of affidavit filed by him in lieu of his oral examination-in-chief. He deposed that the deceased Sri.Mallappa S/o Neelakantappa is his father. Through PW.1, 07 documents are got marked as per Ex.P.1 to Ex.P.7. Ex.P.1 is original Non-availability Certificate, Ex.P.2 is the Notorized copy of Genealogical Tree, Ex.P.3 is the Notarized copy of Adhaar Card of petitioner No.1, Ex.P.4 is the Notorized copy of Adhaar Card of petitioner No.2, Ex.P.5 is the Notorized copy of Adhaar Card of petitioner No.3, Ex.P.6 is the Bhuvana Varthe Kannada daily news paper dated 20.10.2022, Ex.P.6(a) is the portion of publication, Ex.P.7 is the Kranthi Deepa Kannada daily news paper dated 23.10.2022, Ex.P.7(a) is the portion of publication. PW.1 is not cross examined by the other side as the respondent remained absent and has been placed *exparte*.

5. Heard arguments and perused the records.
6. Points that arise for my consideration are that:

- 1. Whether the petitioners have made out grounds to grant the relief as prayed for in the petition?*

- 2. What Order?*

7. My findings to the above points are as under:

Point No.1:- In the Affirmative.

Point No.2:- As per the final order

for the following...

REASONS

8. **Point No.1:** This Court has already narrated the factual matrix of the petition in the above paragraphs. Hence, repetition of the same is not necessary. The evidence given by PW.1 by way of affidavit filed by him in lieu of his oral examination in chief corroborates with the documents Ex.P.1 to 7 as before approaching this Court the petitioners have approached the respondent, for which the authority concerned has issued Ex.P.1 Non-Availability certificate. Apart from that, the documents Ex.P.6 and Ex.P.7 wherein the publication made as per Ex.P.6(a) and Ex.P.7(a) would also justify the fact that in spite of publication of the notice in the papers having wide circulation, none of the interested parties/objectors appeared challenging the petition. As the oral and

documentary evidence given by PW.1 remained unquestioned and unchallenged, there appears no impediment to this court to grant the relief as prayed for in this petition. Hence Point No.1 is answered in the ***Affirmative.***

9. **Point No.2:** In view of my finding on the above point, I proceed to pass the following:

ORDER

The present petition filed U/Sec.13(3) of the Registration of Births and Deaths Act is hereby allowed and consequently the respondent is directed to make necessary entry of death of Sri.Mallappa S/o Neelakantappa who died on 18.10.2005 at Thimlapura Village, Bhadravathi Taluk in the register of death after collecting requisite fee in this regard.

The respondent is also directed to mention in the death certificate that the same is issued in pursuance of this

order.

It is made clear that, if any dispute arises in connection with the date of death or place of death, it will be subject to the decision of the competent Civil court.

No order of costs.

(Dictated to the steno, typed by steno directly on computer, after corrections, pronounced in the open Court on 1st day of December 2022)

(Yathisha.R.)
Prl. Civil Judge and J.M.F.C.,
Bhadravathi.

ANNEXURE

Witnesses examined in support of the Petitioner:

PW.1 : Gurumurthy M.

Documents exhibited in support of the Petitioner:

Ex.P.1 : Original Non-availability Certificate.

Ex.P.2 : Notorized copy of Genealogical Tree.

Ex.P.3 : Notarized copy of Adhaar Card of petitioner No.1.

Ex.P.4 : Notorized copy of Adhaar Card of petitioner No.2.

Ex.P.5 : Notorized copy of Adhaar Card of petitioner No.3.

Ex.P.6 : Bhuvana Varthe Kannada daily news paper dated

20.10.2022.

Ex.P.6(a): Portion of publication.

Ex.P.7 : Kranthi Deepa Kannada daily news paper dated
23.10.2022.

Ex.P.7(a): Portion of publication.

Witnesses examined in support of the Respondent:

-NIL-

Documents exhibited in support of the Respondent:

-NIL-

Prl. Civil Judge and J.M.F.C.,
Bhadravathi.