

KABG510112162025



**IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC,  
AT : GOKAK.**

**PRESENT**

SMT. CHAITRA V. KULKARNI,  
B.A.,LL.B., LL.M.  
ADDL. CIVIL JUDGE & J.M.F.C.,  
GOKAK.

**Original Suit NO.790/2025**

**DATED THIS THE 19<sup>th</sup> DAY OF JUNE, 2026**

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| <b>Plaintiff/s</b> | <ol style="list-style-type: none"><li>1. Smt. Ratnavva W/o Bhimappa Navi,<br/>Age : 55 years, Occu : Household,<br/>R/o : Gajanan Nagar,<br/>Mallapur PG, (Ghataprabha),<br/>Tq : Gokak, Dist : Belagavi.</li><li>2. Mahantesh S/o Bhimappa Navi,<br/>Age : 36 years, Occu : Barber,<br/>R/o : Gajanan Nagar<br/>Mallapur PG, (Ghataprabha),<br/>Tq : Gokak, Dist : Belagavi.</li><li>3. Mahesh S/o Bhimappa Navi,<br/>Age : 33 years, Occu : Barber,<br/>R/o : Gajanan Nagar<br/>Mallapur PG, (Ghataprabha),<br/>Tq : Gokak, Dist : Belagavi.</li><li>4. Umesh S/o Bhimappa Navi,<br/>Age : 32 years, Occu : Barber,<br/>R/o : Gajanan Nagar,</li></ol> |
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|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                      | <p>Mallapur PG, (Ghataprabha),<br/>Tq : Gokak, Dist : Belagavi.</p> <p>5. Suresh S/o Bhimappa Navi,<br/>Age : 29 years, Occu : Govt Servant,<br/>R/o : Gajanan Nagar,<br/>Mallapur PG, (Ghataprabha),<br/>Tq : Gokak, Dist : Belagavi.</p> <p><b>(By Sri.S.B.Kumbar., Adv.,)</b></p>                                                                       |
| <b>Defendant/s</b>                                   | <p>1. The State of Karnataka,<br/>R/by Deputy Commissioner,<br/>Belagaum.</p> <p>2. The Tashildar Gokak,<br/>Tq : Gokak, Dist : Belagavi.</p> <p>3. The Registrar of Birth &amp; Death,<br/>And Chief Officer of<br/>Town Panchayat<br/>Mallapur PG., Tq : Gokak,<br/>Dist : Belagavi.</p> <p><b>(D-1 &amp; 2 by L/AGP.,)</b><br/><b>(D-3 Exparte)</b></p> |
| <b>Date of institution of suit</b>                   | 18.12.2025                                                                                                                                                                                                                                                                                                                                                 |
| <b>Nature of suit</b>                                | Declaration and mandatory injunction                                                                                                                                                                                                                                                                                                                       |
| <b>Date of commencement of recording of evidence</b> | 05.06.2026                                                                                                                                                                                                                                                                                                                                                 |
| <b>Date of pronouncement of judgment</b>             | 19.06.2026                                                                                                                                                                                                                                                                                                                                                 |

| <b>Total duration</b> | <b>Year/s</b> | <b>Month/s</b> | <b>Day/s</b> |
|-----------------------|---------------|----------------|--------------|
|                       | 00            | 06             | 01           |

(Smt. Chaitra V. Kulkarni)  
Addl. Civil Judge & J.M.F.C.,  
Gokak.

**: J U D G M E N T :**

This is a suit for declaration and for mandatory injunction.

**2. The brief facts of the case of plaintiffs:**

It is the case of plaintiffs that, the plaintiffs are permanent resident of Gajanan Nagar Mallapur PG area (Ghataprabha). Taluk Gokak. The eldest son of plaintiff No.1 and brother of plaintiff No.2 to 5 namely Santosh S/o Bhimappa Navi who left the house on 30/09/2012 at Mallapur PG (Ghataprabha) for attending their cutting shop. The said Santosh S/o Bhimappa Navi has not returned to the house of plaintiffs. Further the Plaintiffs have waited and filed a complaint before Ghataprabha police station, same was registered in Ghataprabha PS Cr.No.248/2012 as

Missing. Thereafter also plaintiffs have searched for Santosh S/o Bhimappa Navi but he was not traced and plaintiffs have waited for a period of more than 7 years. The plaintiffs have made all efforts to know whereabouts of Santosh S/o Bhimappa Navi but he was not traced. The son of plaintiff No.1 was missing from the year 2012 and till today the plaintiffs are unaware about whether he Santosh Navi is alive or not. Therefore, by treating that the said Santosh S/o Bhimappa Navi has met with Civil Death and his date of death will have to be 30/09/2012. Therefore, plaintiff No.4 has submitted the application before defendant No.3 for entering the date of death of Santosh Bhimappa Navi in concern death Register of defendant No.3 by treating that he died on 30/9/2012 nature of as Civil Death. The defendant No.3 instead of entering the date of death in a concerned death register has given oral direction to plaintiff to produce the decree from competent court of law. Hence, the plaintiffs have constrained to file this suit.

**3.** The suit summons was duly served on the defendants and Learned AGP appeared for Defendant No.1 and 2 and defendant No.2 has filed written statement. Learned AGP has filed memo of adoption by adopting written statement of defendant No.1 as written statement of defendant No.2 and defendant No.3 has remained absent, hence defendant No.3 is placed Exparte.

**4. Gist of Written statement of defendants**

It is contended in the written statement that, suit of plaintiffs is not maintainable either in law or in facts as such, liable to be dismissed in limine. It is denied that Santosh Bhimappa Navi has left the house on 30<sup>th</sup> September 2012. The defendants have denied the averments of the plaint and contended that the cause of action shown is false. It is specifically contended that, there is a separate procedure for the same in the provisions of Registration of birth and death Act. There is no cause of action to file this suit. Hence, prayed to dismiss the suit with exemplary costs.

5. On the basis of pleadings and documents placed on record, this Court framed following:

**ISSUES**

- [1] Whether the plaintiffs prove that the where about of Santosh S/o Bhimappa Navi is not being heard for more than 07 years?***
- [2] Whether the plaintiffs are entitled to the reliefs prayed in the plaint?***
- [3] What order or decree?***

6. The plaintiff No.4 in order to prove the case got examined himself as PW.1 and got marked Ex.P.1 to Ex.P.6. The PW.1 is cross-examined by L/AGP. But the defendants have not led any evidence on their behalf.

7. The above Issues for consideration are answered as below:

|            |   |                                       |
|------------|---|---------------------------------------|
| Issue No.1 | : | In the Affirmative,                   |
| Issue No.2 | : | In the Affirmative,                   |
| Issue No.3 | : | As per final order for the following; |

**REASONS**

**8. Issue No.1:-** The instant suit is filed by plaintiffs seeking relief of declaration of Civil death of eldest son of plaintiff No.1 and brother of plaintiff No.2 to 5 by name Santosh S/o Bhimappa Navi.

**9.** So as to prove their case, plaintiff No.4 got examined himself as PW-1. In support of oral evidence, he got marked 6 documents Ex.P.1 to Ex.P.6 viz., Ex.P1 is the joint RTC extract of Santosh Bhimappa Navi and Others, Ex.P.2 is the true copy of memorandum, Ex.P.3 is the true copy of permission letter issued by Ghataprabha PS, Ex.P.4 is the true copy of FIR, Ex.P.5 is the True copy of complaint, Ex.P.6 is the News paper and Ex.P.6(a) is the portion of publication in paper. Per contra, though defendants have cross examined PW.1 but have not produced any documentary evidence and have not lead any evidence.

**10.** In view of above, this Court carefully perused oral and documentary evidence. On perusal, it is undisputed fact that, plaintiff No.1 is mother and plaintiff No.2 to 5 are

the brothers of Santosh S/o Bhimappa Navi. With this, this Court carefully perused material on record. So as to prove their case, plaintiff No.4 examined himself as PW-1 and filed affidavit in lieu of examination in chief. PW-1 categorically deposed that, he and plaintiff No.2, 3 and 5 are the brother and plaintiff No.1 is the mother of Santosh S/o Bhimappa Navi and they are the only legal heirs of Santosh S/o Bhimappa Navi. The said Santosh S/o Bhimappa Navi, on 30.09.2012 left the house at Mallapur PG (Ghataprabha) for attending the hair cutting shop. The said Santosh S/o Bhimappa Navi has not returned to their house. The plaintiffs lodged complaint but Police also could not trace him. The said Santosh S/o Bhimappa Navi has not been heard for 13 years and there is a property in the name of Santosh S/o Bhimappa Navi and when the plaintiffs approached the defendants to enter the death of the Santosh S/o Bhimappa Navi in the death register, they directed them to produce decree from Court of law.

**11.** This Court carefully perused cross examination of PW-4, wherein it is suggested that, he did not file any application to register death of his brother. It is pertinent to state that, plaintiffs themselves do not know whether said Santosh S/o Bhimappa Navi is alive or dead but they contend that, he has not been heard and seen for the last seven years. Under such circumstances, question of filing application to register death of said Santosh S/o Bhimappa Navi does not arise at all. However, the plaintiffs have given instructions orally to enter the death of Santosh S/o Bhimappa Navi to the concerned authority but authority directed the plaintiffs to bring a decree from the court. Apart from this, it is not disputed that, plaintiff No.1 is mother and plaintiff No.2 to 5 are the brother of Santosh S/o Bhimappa Navi. It is also not disputed that, there is a property in the name of Santosh S/o Bhimappa Navi. Thus, the factum of disappearance of said Santosh S/o Bhimappa Navi remained unchallenged.

**12.** This Court carefully perused Ex.P.5 is Certified copy of complaint, wherein it appears that, brother of plaintiff No.2 lodged a complaint by alleging disappearance of said Santosh S/o Bhimappa Navi. Further on perusal of Ex.P.4 true copy of FIR, wherein it appears that, Police registered case based on the Ex.P.5. Ex.P.6 is the paper publication, Ex.P.2 is the true copy of endorsement given by the PSI Ghataprabha PS. Though, PW-1 has been cross examined at length, Ex.P.1 to 6 have not been disputed as such, Ex.P.1 to 6 remained unchallenged. Ex.P.5 discloses that the complaint is filed by the brother of Santosh S/o Bhimappa Navi.

**13.** It is pertinent to note that, as per Section 108 of Indian Evidence Act, when a question arises, whether a particular man is alive or dead, it can be proved by showing that, he has not been heard of for seven years by those who would naturally have heard of him, if he had been alive. In case on hand, the plaintiff No.1 to 5 mother, brothers of said Santosh S/o Bhimappa Navi naturally would have

heard of him, if he is alive. Though, the burden of proof regarding death of said Santosh S/o Bhimappa Navi lies on the plaintiffs, but no one in this case has come forward and stated that, said Santosh S/o Bhimappa Navi is alive. Further, on perusal of Ex.P.1 to 6, it is manifest that, plaintiffs have put their best efforts to trace him but it went in vain. Ex.P.6 also discloses that there has been paper publication of the disappearance of Santosh S/o Bhimappa Navi in the news paper Samadarshi despite of which he has been not traced. Apart from this, there is no material to show that, said Santosh S/o Bhimappa Navi is alive or has been heard in last seven years. Therefore, the benefit of presumption U/Section 108 of Indian Evidence Act can be given to plaintiffs. The reasons stated by plaintiffs are genuine, therefore they are entitled for the relief sought. On cumulative reading of evidence of PW-1 and Ex.P.1 to P.6 this Court is of opinion that, plaintiffs by producing cogent oral and documentary evidence proved that, said Santosh S/o Bhimappa Navi has not been heard from 30-09-2012.

**Accordingly, I answer Issue No. 1 is in the Affirmative.**

**14. Issue No.2:-** In the present case plaintiff No.1 is mother of deceased person and plaintiff No.2 to 5 are brothers of Santosh S/o Bhimappa Navi. They are the persons who would naturally have knowledge about the said person and have access to him. But they have averred about the missing of said person since last 13 years and in-spite of their search the said person is not traced.

**15.** Though the defendants have denied the entire averments of the plaint and as per the above said provision of law the onus is on the defendants to prove contrary to that of the plaintiffs' case. Nothing is elicited during the course of the cross-examination of PW.1 by the defendants. Admittedly, none have appeared and not adduced any evidence to establish that the contentions of the Plaintiffs are suspicious and untenable. Therefore, relying upon the above said oral and documentary evidence on record and on the basis of presumption to be drawn as per Section-108 of the Indian Evidence Act, the Court is of the opinion that the Plaintiffs have succeeded the said Santosh S/o Bhimappa

Navi is missing from more than seven years and they are entitled for declaration of civil death of said Santosh S/o Bhimappa Navi. Thereby the plaintiffs are entitled to the declaration of Civil death of Santosh S/o Bhimappa Navi. Further they are also entitled to the relief of direction against the defendant No.1 & 2 for issuance of death certificate by defendant No.2. Hence, issue No.2 is answered in the **Affirmative**.

**16. On Issue No.3:-** For the foregoing reasons stated and the discussions made above, proceed to pass the following:-

**:: ORDER ::**

*The suit of the Plaintiffs is hereby  
“Decreed”.*

*In the result, it is hereby declared  
that the son of plaintiff No.1 and brother of  
Plaintiffs No.2 to 5 by name Shri. Santosh*

*S/o Bhimappa Navi is presumed to be dead and his death is civil death.*

The defendant No.2 shall issue death particulars with respect to Santosh S/o Bhimappa Navi in favour of plaintiffs by mentioning the shara in column No.12 of the death certificate about reference of court order and nature of death as Civil death.

In the peculiar facts and circumstances of the case the parties shall bear their own cost.

Draw Decree accordingly.

*(Dictated to Stenographer, directly on the computer, typed by her, corrected, signed and then pronounced by me in the open Court on this the 19<sup>th</sup> day of June 2026)*

(Smt. Chaitra V. Kulkarni)  
Addl. Civil Judge & J.M.F.C.,  
Gokak.

**ANNEXURE**

**List of witnesses examined for the plaintiff/s side.**

PW-1 : Umesh S/o Bhimappa Navi,

**List of documents exhibited for the plaintiff/s side.**

Ex.P1 : Joint RTC extract of Santosh Bhimappa  
Navi and Others,  
Ex.P.2 : True copy of memorandum,  
Ex.P.3 : True copy of permission letter issued by  
Ghataprabha PS,  
Ex.P.4 : FIR,  
Ex.P.5 : True copy of complaint,  
Ex.P.6 : News paper,  
Ex.P.6(a) : Part of publication in paper,

**List of witnesses examined for the defendant/s side.**

-Nil-

**List of documents exhibited for the defendant/s side.**

-Nil-

(Smt. Chaitra V. Kulkarni)  
Addl. Civil Judge & J.M.F.C.,  
Gokak.