

KABI600010812026



**IN THE COURT OF CIVIL JUDGE AND JUDICIAL MAGISTRATE
FIRST CLASS, AT SANDUR**

:: P R E S E N T ::

Sri. MD. SHAIZ CHOUTHAI,

B.A.,LL.B.(Hons.), LL.M.

Civil Judge & JMFC, Sandur.

Dated: 29th Day of July, 2026

Criminal Misc. No. 532/2026

- Petitioner/s:**
1. Malleshappa S/o Late Thimmappa,
Aged about 60 years,
R/o Sovenahalli Village,
Sandur Taluk, Ballari District.
 2. Sushilamma Pujari D/o Late Thimmappa,
W/o Late Nagappa,
Aged about 73 years,
R/o Sovenahalli Village,
Sandur Taluk, Ballari District.

(By Sri. A.A.P., Advocate)

- Vs -

Respondent/s: The Tahasildar - Cum –
Registrar of Birth and Deaths,
Taluk Office, Sandur,
Sandur Taluk, Ballari District.

(Exparte)

ORDERS

The petitioners have filed this petition U/s.13(3) of the Registration of Birth & Deaths Act, 1969, seeking direction to respondent to enter the death particulars of mother of petitioners and to issue Death Certificate.

2. Background facts in a nutshell are as under:-

Petitioner No.1 and 2 are son and daughter of Durugamma W/o Late Thimmappa. They are the resident of address shown in the cause title of petition. The mother of petitioners by name Durugamma W/o Late Thimmappa, expired on 01.03.1995 at Sovenahalli village, Sandur Taluk, Ballari District. That due to lack of knowledge and procedure of law, the factum of death of their mother is not intimated to the respondent within the prescribed period. As such there is no entry in the Register maintained by the respondent about the death of their

mother. When the petitioners approached the respondent for issuance of death certificate, he has issued Non-Availability certificate on 16.04.2026. Now petitioners are in need of death certificate of their mother. Hence this petition.

3. After registration of the case, this Court ordered to issue of citation in Kannada daily newspaper and accordingly the citation came to be duly published in the Kannada newspaper. Notice was also issued to respondent. However, respondent remained absent and hence placed *exparte* of service of notice on it.

4. The petitioner No.1 is examined as P.W.-1 and got marked Ex.P1 to Ex.P6. Ex.P1 is the Non-Availability Certificate, Ex.P2 is the affidavit of family genealogical tree, Ex.P3 and Ex.P4 are attested copies of Aadhaar card of petitioner No.1 and 2, Ex.P5 & Ex.P6 are the Paper Publication and closed the side. None were examined on behalf of Respondent.

5. Heard the arguments of learned counsel for the petitioners.

6. Upon hearing arguments and on perusal of materials placed on records, following points arises for consideration:-

1) Whether the petitioners have made out grounds for allowing 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 final order
for the following:-

:: R E A S O N S ::

8. **POINT NO.1:-** In order to prove the case, petitioner No.1 got examined himself as PW1 and reiterated the petition contents in his examination-in-chief affidavit. As respondent is placed *exparte*, his testimony remained unchallenged and controverted. Therefore, there is no reason to disbelieve the evidence given by petitioners.

9. It is also trite that in a proceeding U/s.13(1)(3) of Registration of Births and Deaths Act, the Court is concerned with the factum of birth or death, and date of birth or death is not relevant. This

proposition finds support from the ratio laid down by *Hon'ble High court of Karnataka* in 2000(4) K.C.C.R 2674 (*State of Karnataka V/s Smt. Annakka*), which reads thus:-

“REGISTRATION OF BIRTHS AND DEATHS ACT, 1969-Section 13(3) Direction to make an entry in the Birth Register by the Magistrate Challenged on the ground, that except the statement of applicant on oath there was no other material.

Held: The magistrate in a proceeding under section 13(3) only ascertains the birth of the child and date is not the material consideration, as such directions bind only Registration Office under Act to make an entry and does not carry higher probative value”.

10. Reverting to the factual matrix of the present case, petitioners have stated in their petition as well as in the examination-in-chief of PW1 that, their mother was expired on 01.03.1995 at Sovenahalli village, Sandur Taluk, Ballari District, which as already noted remains unchallenged. Hence, in the light of principles emerges

form the decision referred above, petition is required to be allowed.

Hence, I answer the Point No.1 in the **Affirmative**.

11. **POINT No.2:-** For the foregoing reasons, I proceed to pass the following:-

ORDER

The petition filed by the petitioners U/s.13 of Karnataka Registration of Birth and Death Act, 1969 is hereby allowed.

*The respondent is directed to enter the death details of mother of petitioners by name viz., **Durugamma W/o Late Thimmappa**, as **01.03.1995**, at Sovenahalli village, Sandur Taluk, Ballari District, in the concerned records and issue death certificate to the petitioners after collecting the necessary fee.*

*(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the **29th day of July, 2026**)*

(MD. SHAIZ CHOUTHAI),
Civil judge & JMFC, Sandur.

:: A N N E X U R E S ::

1. List of witness examined for Petitioner/s:

PW-1 : Malleshappa S/o Late Thimmappa

2. List of documents exhibited for Petitioner/s:

Ex.P1 : Non-Availability Certificate.

Ex.P2 : Affidavit of family genealogical tree.

Ex.P3 & 4 : Attested copies of Aadhaar card of petitioner No.1 and 2.

Ex.P5 & 6 : Paper Publications.

3. List of witness examined for Respondent/s:

-Nil-

4. List of documents exhibited for Respondent/s:

-Nil-

(MD. SHAIZ CHOUTHAI),
Civil judge & JMFC, Sandur.