

KACD420021082022



Presented on : 17.10.2022
Registered on : 17.10.2022
Decided on : 01.12.2022
Duration : 01month 15 days

IN THE COURT OF THE PRL.CIVIL JUDGE AND J.M.F.C.,

AT HOLALKERE

Present: Sri.UMESHA M. P., B. A. L., LL, B.
PRL.CIVIL JUDGE & J.M.F.C.,
HOLALKERE

DATED: ON THIS THE 01st DAY OF DECEMBER - 2022

CRL. MISC. NO. 126 / 2022

- PETITIONERS** : 1. **DANAPPA** S/o Late Thippeswamy,
Aged about 65 years,
2. **RANGAPPA** S/o Late Thippesway,
Aged about 63 years,
R/o Bidara, Agrahara,
Virgonagar, Bangalore.
3. **SHARANAPPA** S/o Thippesway,
Aged about 60 years,
R/o Somanahalli, Guttidurga,
Davanagere District.
4. **CHANDRAPPA** S/o Thippeswamy
Aged about 58 years,
R/o Somanahalli, Guttidurga,
Davanagere District.
5. **JAYAPPA** S/o Late Nagappa,
Aged about 53 years,
6. **MANJAPPA** S/o Late Nagappa,
Aged about 55 years,

7. **SMT. VIMALAMMA** W/o Prahalladappa,
Aged about 61 years,
R/o Kanchipura village,
Chitradurga District.
8. **SMT. SUNDARAMMA** W/o Rajappa,
Aged about 58 years,
R/o Turuvanuru village,
Chitradurga District.
9. **SMT. SHASHIKAL** W/o Late Basavarajappa,
Aged about 40 years,
10. **SMT. RATHANAMMA** W/o Ramanna,
Aged about 63 years,
11. **JEEVAN** S/o Manjappa,
Aged about 20 years,
12. **SHIVARAJ** S/o Manjappa,
Aged about 23 years,
Petitioners No.1, 5, 6, 9, 10, 11&12 are R/o
Adanuru village, Holalkere Taluk,
Chitradurga District.
(Represented by Sri.R.J., Advocate)

-Versus-

- RESPONDENTS:** 1. **THE REGISTRAR OF BIRTHS & DEATHS,**
Repted by The Thasildhar, Holalkere,
Holalkere Taluk.
2. **THE VILLAGE ACCOUNTANT,**
Adanuru Peerka,
Kasaba Hobli, Holalkere Tq.
(RESPONDENTS No.1 & 2 PLACED EXPARTE)

ORDER

This petition is filed by the petitioners U/Sec.13(3) of Birth and Death Registration Act, prays this Court for directing the respondents to

register the date of death of **SRI. MEKETHIMMAPPA S/O NINGAPPA** who was died on 15.05.1999 at Maddenahatti Village, Kasaba Hobli, Holalkere Taluk.

2. The case of the petitioner is as under:-

That, the grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12 by name **SRI. MEKETHIMMAPPA S/O NINGAPPA** who was died on 15.05.1999 at Maddenahatti Village, Kasaba Hobli, Holalkere Taluk and the said fact was informed by the petitioners to the concerned authority / respondents. Now, the petitioners are need of death certificate of grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12 for the purpose of Warsa and to obtain Govt. facilities, hence they have given an application before the respondents. But, on 17.09.2022, the respondents' authorities have issued non-availability certificate stating that, there is no entry of date of death of grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12 in the concerned register. Hence, without alternative, the petitioners have filed the present petition praying to issue direction to the respondents' officials to register the date of death of grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12 as prayed and issue death certificate accordingly.

3. After filing of the petition, notices were issued to the respondents. Thereafter, the counsel for the petitioners taken substitute

service by way paper publication in Kannada daily news paper. In spite of that, no one has appeared before this Court. Hence, on 30.11.2022 the respondents have been placed ex-parte and matter is posted for petitioners evidence.

4. To prove the case of the petitioners and to substantiate them contention, the petitioner No.11 himself examined as PW-1 and got marked ExP-1 to ExP-15 documents. On the other hand, the respondents did not chosen to lead any evidence on their behalf and no documents were marked on behalf of the respondents.

5. I have heard the arguments of both the parties. Perused the oral and documentary evidence on record.

6. The point that would arises for my consideration is as under;

1. *Whether the petitioners have made out sufficient grounds to allow the petition?*
2. *What order?*

7. I answer the above point in the Affirmative for the following:-

REASONS

POINT NO.1:-

8. It has been averred in the petition that, the grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12 by name **SRI. MEKETHIMMAPPA S/O NINGAPPA** who was died on 15.05.1999 at Maddenahatti Village, B.Durga Hobli, Holalkere Taluk and the said fact was informed by the petitioners to the concerned

authorities / respondents. Now, the petitioners are need of death certificate of grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12 for the purpose of Warsa and also to obtain Govt. facilities, hence they have given an application before the respondents. But, on 17.09.2022, the respondents' authorities have issued non-availability certificate stating that, there is no entry of death of **SRI. MEKETHIMMAPPA S/O NINGAPPA** in the concerned register.

9. To prove the case of the petitioners and to substantiate their contention, the petitioner No.11 himself examined as PW-1 and in his evidence he reiterated the facts stated in the petition and got marked ExP-1 to ExP-15 documents. ExP-1 is the Non-availability certificate dated:17.09.2022. ExP-2 is the true copy of mahazar, ExP-3 is the family G-tree of the family of petitioners, ExP-4 is the Notarized copy of Aadhar card of petitioner No.11, ExP-5 to ExP-15 are the Notarized copy of Aadhar cards of petitioner No.1 to 10 & 12. On perusal of ExP-1 and evidence, I am satisfied that date of death of **SRI. MEKETHIMMAPPA S/O NINGAPPA** is not entered in the Births and Deaths register of the respondents' office and further he has also produced paper publication taken in "HOSADIGANTHA" daily Kannada newspaper.

10. The oral evidence of the PW-1 corroborates with the documents produced by the petitioners. The petitioners have produced the genealogical tree of their family to show that, the petitioners are legal heir of **SRI. MEKETHIMMAPPA S/O NINGAPPA**. ExP-3 which is the

genealogical tree of the petitioners wherein after close perusal of the same it goes to show that **SRI. MEKETHIMMAPPA S/O NINGAPPA** is the grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12, hence on close perusal of the said ExP-3- genealogical tree of the family of petitioners it can be noticed that, the petitioners are the legal representative of deceased **SRI. MEKETHIMMAPPA S/O NINGAPPA**.

11. The averments made in the petition and the evidence of PW-1 corroborates with the documents produced by the petitioners. ExP-1 is non-availability certificate would indicate that, the date of death of grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12, was not registered in the register maintained by the respondents. Further as per ExP-3 it goes to show that **SRI. MEKETHIMMAPPA S/O NINGAPPA** is the grandfather of petitioner No.1 to 10, great-grand-father of petitioner No.11 & 12, hence by virtue of the above said document marked at ExP-3 / genealogical tree of the family of petitioners, it goes to show that, the petitioners are the legal heirs of **MEKETHIMMAPPA S/O NINGAPPA**, hence there are sufficient grounds to allow the petition. Mere entering the fact of death or birth of any person does not create any right and also does not lose any right in respect of any property. If the date of birth and death of any person is not registered for any reasons, it can't be denied in getting registration of the same. Therefore, I answer the point for consideration in the Affirmative and proceed to pass the following:

ORDER

The petition filed by the petitioners under the provisions of section 13(3) of Registration of Births and Deaths Act, is hereby allowed.

The respondents are hereby directed to enter the date of death of **SRI. MEKETHIMMAPPA S/O NINGAPPA** who was died on 15.05.1999 at Maddenahatti Village, Kasaba Hobli, Holalkere Taluk, Chitradurga Dist, in the concerned register after receipt of requisite late fee from the petitioners.

(Dictated to the Stenographer directly on Computer and typed by her, corrected and then pronounced by me in open court on this the **01st day of December– 2022**)

(UMESHA M.P.)
Prl.Civil Judge & J.M.F.C.,
Holalkere

ANNEXURE TO THE ORDER**List of witness examined on behalf of petitioners:-**

PW-1 : Jeevan S/o Manjappa.

List of examined on behalf of respondents:-

-NIL-

List of documents marked on behalf of petitioners:-

Ex.P-1 : Non-availability Certificate dated:17.09.2022,
Ex.P-2 : True copy of Mahazar
Ex.P-3 : G-Tree of the family of petitioners
Ex.P-4 : Notarized copy of Aadhaar card of petitioner No.11.
Ex.P-5 to 15 : Notarized copy of Aadhaar cards of petitioner No.1 to 10 &12.

List of witnesses & documents on behalf of respondents:-

-NIL-

(UMESHA M.P.)
Prl.Civil Judge & J.M.F.C.,
Holalkere

(Order pronounced in open court vide in separate order)

: O R D E R :

The petition filed by the petitioners under the provisions of section 13(3) of Registration of Births and Deaths Act, is hereby allowed.

The respondents are hereby directed to enter the date of death of **SRI.MEKETHIMMAPPA S/O NINGAPPA** who was died on 15.05.1999 at Maddenahatti Village, Kasaba Hobli, Holalkere Taluk, Chitradurga Dist, in the concerned register after receipt of requisite late fee from the petitioners.

Prl.Civil Judge & J.M.F.C.,
Holalkere