

KADG520008632026



Presented on : 24-03-2026

Registered on : 24-03-2026

Decided on : 27-06-2026

Duration : 0 years, 3 months, 3 days

IN THE COURT OF THE PRL. CIVIL JUDGE, AND JUDICIAL
MAGISTRATE FIRST CLASS AT HONNALI.

PRESENT : Sri. Manjunath Banakar., B.A., LL.B (Spl)
Prl. Civil Judge and JMFC., Honnali.

Criminal Miscellaneous No.235/2026

Dated : 27th June 2026

PETITIONERS: 1. Hanuamantha Naik

S/o tholachanaik

Aged about 68 years

R/o: Sogilu village

Nyamathi taluk.

2. Girija Bai W/o Peekyanaik

Aged about 70 years

R/o: Kunchenahalli village

Shivamogga taluk.

(Rep.By Sri. DH., Advocate.)

VS

RESPONDENT The Tahasildar,
The Registrar of Birth and Death,
Taluk office, Honnali taluk,
Davanagere district.

(Exparte)

:: O R D E R ::

The Petitioners have filed this petition U/s 13(3) of Registration of Birth and Deaths Act 1969 for issuance of directions to the respondent to make an entry of date of death of deceased Tholachanaik S/o Lokyanaik.

2. In the petition, the petitioners have averred that, they are the legal heirs of deceased Tholachanaik S/o Lokyanaik, who died on 01.01.1960 at Sogilu village, Nyamathi taluk. Further, the petitioners sought death certificate of deceased from respondent but, he has given non-availability certificate on 16.03.2026. Further, it is averred that, the failure for non intimating the death of deceased to the respondent is a bonafide one and not an intentional. Now the death certificate of deceased is required them to get change of khata from the concerned authority. As such, they prayed to allow this petition by issuance of

directions to the respondent to make necessary entries and issuance of death certificate of deceased Tholachanaik S/o Lokyanaik dated 01.01.1960.

3. The respondent has not turned up, despite of receipt of notice to him. Hence placed exparte.

4. In order to substantiate the case, petitioner No.1 himself got examined as PW.1 and got marked documents as per Ex.P.1 to 5 and closed his side.

5. Based on the materials on record, the following points are arise for my consideration:

1. Whether the petitioners are entitled for the relief as sought for?
2. What order?

6. Heard the arguments on behalf of petitioners.

7. Perused the materials on record, my findings to the above points are as follows:

Point No.1 : In the Affirmative.

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

: REASONS :

8. Point No.1 : The petitioners have asserted that, Tholachanaik S/o Lokyanaik was died on 01.01.1960. However, his death was not intimated to the concerned authority. As such, they prays to issue direction to the respondent for making necessary entries and issuance of death certificate of deceased.

9. In order to prove the case, the petitioner No.1 stepped into the witness box got examined himself as PW.1 by filing an affidavit evidence. The affidavit evidence of PW.1 is nothing but a replica of petition averments. In support of the oral testimony the PW.1 has relied upon Ex.P.1 to 5. Ex.P.1 is the non-availability certificate issued by Tahsildar, Honnali, Ex.P.2 is report issued by the Village Accountant, Ex.P.3 is notarized copy of Genealogical Tree, Ex.P.4 is the Notarized copies of Aadhar cards of petitioners, Ex.P.5 is paper publication.

10. In spite of paper publication, nobody has filed objections to this petition. The oral testimony of PW.1 and documentary evidence adduced by him is remained unchallenged. So, there is no contrary evidence on record. In

the absence of that, the testimony of PW.1 needs to be accepted and moreover, the Hon'ble High Court of Karnataka has ruled in a decision reported in 2004 KCCR 2674, the lordship has held that, the contents of the affidavit i.e., on oath should be considered as a higher probative value, in the absence of contrary to the averments. There is no objection from anybody, inspite of paper publication. Further, the petitioners have sought to enter the date of death deceased Tholachanaik S/o Lokyanaik dated 01.01.1960 which is prior to the registration of Birth and Death Act. However, there is no bar to consider the petition. Even , the date of death has taken place much earlier to the registration of Birth and Death Act, as held by Hon'ble High court of Karnataka in a decision reported in AIR 2004 KAR 221, ILR 2003 KAR 4787 in between Smt. Devamma Vs Registrar of Birth Death, considering the above dictum, there is no bar to consider this petition. Hence, I do not found any grounds to decline the relief and moreover, it will not cause prejudice to the respondent. Therefore, it is just and necessary to meet the ends of justice to allow this petition. Hence, I answered this point in the Affirmative.

11. Point No.2: For the reasons discussed above, this court proceed to pass the following:

//ORDER//

The petition filed U/Sec. 13(3) of Registration of Birth and Death Act, 1969 is hereby allowed.

The respondent is directed to make an entry of date of death of Tholachanaik S/o Lokyanaik i.e. 01.01.1960 in the death register and issue death certificate to the petitioners by collecting necessary fee from them.

No order as to cost.

(Directly dictated to the Stenographer on computer and typed by her, corrected by me and then pronounced in the Open Court on 27th day of June 2026.)

(Manjunath Banakar.)
Prl. Civil Judge & JMFC.,
Honnali.

ANNEXURE

1. List of witnesses examined for Petitioners:
PW.1 : Hanumanthanaik.

2. List of documents exhibited for Petitioners:

- Ex.P.1 : Non-availability certificate issued by the
Tahsildar, Honnali.
- Ex.P.2 : Report issued by the Village Accountant
- Ex.P.3 : Notarized copy of genealogical tree.
- Ex.P.4 : Notarized copies of Aadhar cards of petitioners
- Ex.P.5 : Paper publication.

(Manjunath Banakar.)
Prl. Civil Judge & JMFC.,
Honnali.

