

KADK610001302026



Presented on : 27-02-2026
Registered on : 27-02-2026
Decided on : 25-06-2026
Duration : 03 months/28 days

**IN THE COURT OF CIVIL JUDGE & J.M.F.C.
AT MOODBIDRI, DAKSHINA KANNADA**

**PRESENT: Smt.Fawaz P.A., B.A., LL.B.,
CIVIL JUDGE & J.M.F.C.,
MOODBIDRI.**

DATED: THIS THE 25TH DAY OF JUNE, 2026

CRL.MISC.33/2026

PETITIONER :-

Mr. Dayananda,
Aged about 56 years,
S/o. Late Padmanabha Samagara,
R/at. D.No.3-196,
Near Govt. School,
Gandhinagara, Marpady Village,
Moodbidri Taluk, DK District.
(By Sri Harish P., Advocate)

V/s

RESPONDENT:-

**The Chief Officer of T.M.C.,
Moodbidri.**
(Registrar of Births & Deaths),
(Exparte)

ORDERS

This Petition is filed under section 13(3) R/w Rule 9(3) of the Registration of Birth and Death Act, by the Petitioner against the Respondent.

2. The brief facts of the Petitioner's case is as under:

The Petitioner's father Padmanabha Samagara has died on **02.10.1979** at Kadepalla, Gandhinagara, Marpady Village, Moodbidri Taluk. The Petitioner when applied for the death certificate of deceased at Respondent, the Respondent issued Non-Availability Certificate. Hence the Petitioners filed this petition.

3. This court had issued notice to the Respondent. The same was served sufficiently. In spite of due service of notice, the Respondent did not appear before this court. Hence, the Respondent was placed exparte. In order to corroborate the transaction taken place for issuance of notice to the interested parties, the

Petitioner, carried out public notice by way of paper publication among the general public in daily newspaper. In pursuant of said paper publication, no interested persons from the general public appeared before this court to object this petition.

4. In order to prove Petitioner's case, the Petitioner himself examined as P.W-1 by filing affidavit in lieu of Examination-in-Chief and Ex.P1 to ExP5. As the Respondent remained absent, no cross examination of P.W-1 was recorded.

5. Heard the arguments of Petitioner. Perused the entire documents available on record. Following points arise for my consideration:

1. Whether the Petitioner is entitled for registration of the date of death of his father by name, **"PADMANABHA SAMAGARA"** who has died on **02.10.1979** at **Kadepalla, Gandhinagara, Marpady Village, Moodbidri Taluk, D.K.**, as alleged?
2. What order?

6. My answers to the above points are as under:

Point No.1 : In the ***Affirmative.***

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

R E A S O N S

7. Point No.1:- In order to prove the Petitioner's case, Petitioner himself examined as P.W-1 by filing affidavit in lieu of Examination-in-Chief and got marked 5 documents as Ex.P1 to Ex.P5. So far as Ex.P1 is concerned, Non-Availability Certificate issued by the Respondent's office dated 11.02.2026 in favour of Petitioner. Petitioner had also published the fact of death of his father in the News paper.

8. On perusal of the entire documents produced by the Petitioner, it is quite evident that the Petitioner's father has died on **02.10.1979.**

9. However, the Respondent remained absent and placed exparte, the entire evidence available on record

remained unchallenged and undisputed. In addition to that, the Petitioner has also carried out public notice by way of Daily Newspaper on the interested parties among the general public. Under which, this court has relied upon the decision reported in **ILR 2013 KAR 4703 between Muniyamma vs. Devegowda**. In pursuant to the paper publications, no person from the general public appeared before this court to object the petition.

10. Further it is pertinent to note here that this Court is relying on reported decision in **ILR 2000 KAR 4770 between State of Karnataka vs. Annakka**, the Hon'ble High Court of Karnataka it was held that with reference to Section 13(3) of Registration of Births and Deaths Act, 1969:

“ The policy of the law embodied in the section, as it appears to me, is to avoid manipulation in the entries relating to the date of births and deaths. Such entry shall be made

immediately after the occurrence. Precaution should be taken while making delayed entries. The law says that an entry which has not been made within one year of its occurrence cannot be made without an order of the Magistrate. Section 13 (3) of the Act is just a constraint on the Registrar. It is not a provision whereby an aggrieved party could get an adjudication on his disputed date of birth. The order of the Magistrate binds only the Registrar and not others. The entry made by the Registrar pursuant to an order of the Magistrate, cannot carry higher probative value and its proof must necessarily depend upon the facts and circumstances of each case.”

In the light of the foregoing discussion and law elucidated by the Hon’ble High Court in the case of ***State of Karnataka v. Annakka*** reported in ***ILR 2000 KAR 4770*** and in the case of ***Muniyamma v. Devegowda*** reported in ***ILR 2013 KAR 4703***, considering the nature and scope of proceedings, on the basis of the evidence discussed above, I am satisfied that the averments made in the petition are believable. Therefore, I find that the Petitioner is entitle for the reliefs claimed. Henceforth, this petition need to be allowed.

Accordingly, **Point No.1 is answered Affirmatively.**

11. Point No.2: In view of the above discussion and answering **Point No.1 Affirmatively**, I proceed to pass the following order :

ORDER

The petition filed under Section 13(3) R/w Rule 9(3) of the Registration of Birth and Death Act, is hereby allowed.

The Respondent is hereby directed to make proper entries in respect of the date of death of deceased by name "**PADMANABHA SAMAGARA**" who has died on at **02.10.1979** at "**Kadepalla, Gandhinagara, Marpady Village, Moodbidri Taluk**", in the relevant registers maintained by the Respondent by receiving the requisite fee.

Office is directed to issue intimation to Respondent.

(Dictated to the stenographer, transcribed by her, transcript revised by me, corrected, signed and then pronounced in the open Court on this 25th day of June, 2026.)

**(Fawaz P.A.)
Civil Judge & J.M.F.C.,
Moodbidri**

ANNEXURE

**WITNESS EXAMINED ON BEHALF OF THE
PETITIONER:**

P.W.1 : Mr. Dayananda

**DOCUMENTS MARKED ON BEHALF OF THE
PETITIONER:**

Ex.P1 : Non-Availability Certificate.
Ex.P2 : Notarized copy of Aadhar card of petitioner
Ex.P3 : Certificate
Ex.P4 : Kannada Prabha daily news paper
Ex,P5 : Indian Express daily news paper

**WITNESS EXAMINED ON BEHALF OF THE
RESPONDENT : -----NIL-----**

**DOCUMENTS MARKED ON BEHALF OF THE
RESPONDENT : -----NIL-----**

**(Fawaz P.A.)
Civil Judge & J.M.F.C.,
Moodbidri**

