



**IN THE COURT OF CIVIL JUDGE & JMFC,
KALAGHATAGI**

Present

SRI. G. SANJEEV KUMAR.
M.B.A. LL.B.
Civil Judge and J.M.F.C., Kalaghatagi.

Crl.Misc.71/2026

Dated on this the 27th day of July 2026

Petitioner : Shanmukhappa S/o. Yallappa Kichadi
Age: 54 years, Occ: Agriculture,
R/o. Hirehonnihalli village,
Tq: Kalaghatagi , Dist: Dharwad.
(By Sri. V.B.S., Advocate)

Vs.

Respondent : The Tahasildar and The Registrar of
Births and Deaths, Kalaghatagi
Tq: Kalaghatagi, Dist: Dharwad.

2 The Village Accountant
Hirehonnihalli village,
Tq: Kalaghatagi, Dist: Dharwad.

(Exparte)

(G. Sanjeev Kumar)
Civil Judge and JMFC.,
Kalaghatagi.

ORDER

1. The petition is filed for a relief of issuance of the Death Certificate in the name of “**Smt. Parvatewwa W/o. Mahadev Kallimani**” as died on 10.12.2003.

2. The factum of the case of the petitioner is encapsulated as below:

- (i)** It is the case of the petition that his sister “**Smt. Parvatewwa W/o. Mahadev Kallimani**” had died on 10.12.2003 at Hirehonnihalli village of Kalaghatagi Taluka. Due to bonafied mistake the factum of death of his sister was not reported to the respondents office within prescribed time. Hence, the respondents have issued a Non-availability certificate.
- (ii)** The petitioner has submitted that Death Certificate of his sister was required for the purposes of death register maintained by the respondents as died on 10.12.2003.

(iii) When the petitioner had applied for Death Certificate with the respondents their application was rejected and instead a Non-availability certificate was issued by the respondents office stating that the event of date of Death of deceased was not reported in time. Hence was inclined to bring the petition.

3. The notice was duly served on the respondents, but there was no representation from the respondents office. Hence, the respondents are placed Ex-parte.

4. The petitioner had taken paper publication for the purposes of inviting any objection to the said petition. Despite, the publication he was no representation made by anyone to that effect.

5. Petitioner had examined himself as PW1 and got marked Ex.P1 to 3.

6. Heard the arguments advanced by the learned counsel for the petitioner and perused the records, the following points arise for the consideration of this Court:-

Point No.1: Whether the petitioner has made out grounds U/Sec.13(2) of Birth and Death Registration Act to seek direction to the respondent for entering the date of death of the petitioner's deceased **sister “Smt. Parvatewwa W/o. Mahadev Kallimani”** as died on 10.12.2003 in the concerned register?

Point No.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

REASONS

8. Point No.1:

(i) The petitioner has filed the petition for entering the date of death of his sister in the concerned death register maintained by the respondents as died on 10.12.2003. To buttress this fact, the petitioner has examined himself as PW1 and filed an affidavit in lieu of examination-in-chief. This affidavit contains the following:

a) **The factum of death of the deceased:- “Smt. Parvatewwa W/o. Mahadev Kallimani”** as died on 10.12.2003.

- b) **The reasons furnished for non reporting of the factum of death**: of the deceased person was due to bonafide inadvertence of the petitioner.
- c) **The purpose for filing this petition:-** was for availing a death certificate of the petitioner for death register maintained by the respondents as died on 10.12.2003.

(ii) **Ex.P1-** is the non availability certificate issued in accordance with rule 13(2) of Karnataka Registration of Births and Deaths Rules, 1999 as duly issued to the petitioner by the respondents after verifying the records maintained for registering the death particulars. This evidently shows that, the factum of death of the petitioner deceased sister was not reported within the prescribed time.

(iii) **Ex.P2** is the attested copy of the Adhar Card of the petitioner which evidently proves that the date of Birth of the petitioner was in the year 1972. By virtue of this, it is clear that at the time of death of his sister (i.e., 10.12.2003). Rationally, it would be illogical to

expect the petitioner to know and understand the consequence of the non reporting of the factum of death due to her tender age.

(iii) Wherefore, in the absence of any contradicting evidences on record and in the absence of any cross-examination of the petitioner's witness, it would be proper to invoke the provisions of law contained in Order 8 Rule 5(2) of CPC to pronounce judgment on the basis of the facts contained in the petition. Furthermore, this also paves way to believe the petitioners version by giving effect to the presumption contained in Sec.114 of Indian Evidence Act.

9. Analysis on the point of Law:

- i) The mandate of law contained U/Sec.13(3) of the Registration of Births and Deaths Act, 1969 contemplates that the magistrate shall verify the factum of the correctness of death before passing an order for the issuance of death certificate. In ***Muniyamma and ors V/s Devegowda and ors ILR 2013(3) KAR 4703, the Hon'ble High Court of***

Karnataka has in para 17 of the judgment prescribed the following requirements that the applicant shall furnish in the petition.

- (a) The reasons/grounds as to why entry in the death register could not be made earlier and why he could not give information regarding the same to the competent authority.*
- (b) The purpose for which he wants entry in the death register.*
- (c) Wife and children of the deceased have to be made parties in the application as also the jurisdiction Register of Births and Deaths*
- (d) The particulars of the person/persons who are likely to be affected by the entry in the death registered*
- (e) The magistrate can also direct the applicant to furnish such other particulars as he may deem fit and proper in the circumstances of the case. Accordingly, the petition and averments duly deposed in the affidavit filed in lieu of examination-in-chief discloses the particulars set forth in the aforementioned dictum. This being summary proceedings, the facts averred in*

the petition and duly deposed by the petitioner would suffice. In the light of the above facts and circumstances, and the evidences placed on record, point No.1 is answered in the **Affirmative**.

10. Point No.2:- In view of the reasons discussed above, and adopting the dictum ***Muniyamma and ors V/s Devegowda and ors ILR 2013(3) KAR 4703*** this court is inclined to pass the following:-

ORDER

The petition filed under Section 13(2) of Registration of Births and Deaths Act, 1969 is hereby allowed.

The respondents are hereby directed to enter the following particulars of death of the deceased person in the register of deaths:

Sl.No.	Details	Particulars of the deceased
1	Name of the Deceased	"Parvatewwa Kallimani"
2	Husband Name	Mahadev
3	Date of Death	10.12.2003
4	Place of Death	Hirehonnihalli village
5	Taluk	Kalaghatagi
6	District	Dharwad

The respondent shall issue the certificate of Death in the name of **“Smt. Parvatewwa W/o. Mahadev Kallimani”** momentarily after entering the above details and after receiving the prescribed fee.

(Dictated to the Stenographer directly on the computer, corrected and initialed by me and then pronounced in open court on this the **27th day of July 2026**)

(G.Sanjeev Kumar)
Civil Judge & JMFC,
Kalaghatagi.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR THE PETITIONER

PW.1: Shanmukhappa Yallappa Kichadi

LIST OF WITNESSES EXAMINED FOR RESPONDENTS

-NIL-

LIST OF DOCUMENTS MARKED FOR PETITIONER

Ex.P.1	:	Original Non-availability certificate
Ex.P2	:	Attested copy of Aadhar Card
Ex.P3	:	Paper publication

LIST OF DOCUMENTS MARKED FOR RESPONDENTS

-NIL-

(G.Sanjeev Kumar)
Civil Judge & JMFC,
Kalaghatagi.