



IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,
MUDIGERE

PRESENT: Sri. Vishwanath.A. B.B.A.,LL.B.,
C/c Prl. Civil Judge & JMFC.,
Mudigere.

DATED THIS THE 30th DAY OF MARCH 2023

Crl.Misc.No.175/2022

BETWEEN :

1. Sri Nanjegowda
S/o late Annegowda,
Aged about 71 years,

2. Smt. Meenakshi
W/o Annegowda,
D/o Nanjegowda,
Aged about 55 years,

Both are R/at Indiranagara,
Bilugula Village,
Hesgal Post, Mudigere Taluk.

....Petitioners

(By Sri D.S.Sudhir, Adv.)

AND :

The Registrar of Birth & Death
& The Tahasildar,
Mudigere, Mudigere Taluk

....Respondent

(Absent)



ORDERS ON MAIN PETITION

This is a petition filed by the petitioners under section 13(3) of Registration of Birth and Death Act, 1969 seeking for direction by this court to the respondent authority to enter the date of death of wife of petitioner No.1 and mother of the petitioner No.2 by name **Smt.Nagamma @ Kamalamma W/o Nanjegowda**, who was died on 20.03.2020 at **Bilugula Village, Kasaba Hobli, Mudigere Taluk**, in the register maintained by its office.

2) The above petition was filed on 14.10.2022 and this court has issued notice to the respondent. In-spite of service of notice, the respondent has not turned up towards this court and remains absent.

3) Now the following points arise for consideration of this Court:

1. Whether the petitioners have made out grounds for issuance of directions as sought in the petition ?

2. What order ?

4) In support of the petitioners case, the petitioner No.2 got examined herself as PW1 and got marked documents at Ex.P1 to P7 and closed their side, since the



Respondent remained absent the cross examination is taken as nil.

5) Having heard the petitioners counsel, this court perused the petition, oral and documentary evidence supplied by the petitioners. Now, the findings of this court to the above points are as follows :

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

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

REASONS

6) Point No.1: In order to prove the averments of the petition, the petitioner No.2 got examined herself as PW1 by filing her Affidavit in lieu of examination-in-chief. Wherein she has reiterated the petition averments. Therefore, it is needless to say as it is nothing but repetition of facts. She has also adduced the documentary evidence and got marked the same as Ex.P1 to P7 documents.

7) It has been contended by the petitioners that the deceased by name Smt.Nagamma @ Kamalamma W/o Nanjegowda, who is the wife of petitioner No.1 and mother of petitioner No.2 was died on 20.03.2020 at Bilugula



Village, Kasaba Hobli, Mudigere Taluk. But, due to oversight, mistake and inadvertence, her date of death is not registered in the concerned register of the respondent authority and now the death certificate of the deceased is required for the purpose of change of khatha.

8) It is further contended by the petitioners that they have not got register the date of death of the deceased at the respondent authority and the same is not an intentional one. Further, when they approached the respondent authority, they have issued a non-availability certificate instead of issuing death certificate by stating that the date of death of the deceased is not registered. The said non-availability certificate issued by respondent is marked at Ex.P1. The Petitioner No.2 also adduced evidence and got marked documents at Ex.P2 to 7 which are the, genealogy certificate, paper publications, copy of the Aadhar cards and Hakkupathra wherein the property mentioned therein stands in the name of deceased. Ex.P2 goes to show that the petitioners are the legal representatives of the deceased.

9) Further, the petitioners got published public notice through news papers publication in Jilla Varadigara Jayamithra and News Nest daily newspapers on 23.11.2022



respectively as per Ex.P3 & P4 respectively. After newspaper publications, no objection has been received with respect to the said paper publications. Ex.P2 the genealogy affidavit clearly goes to show that the petitioners are the legal representatives of the deceased and all of them are arrayed as parties to this petition.

10) It is germane to note that, in the present case the respondent has remained absent. Hence, the case of the petitioners is unchallenged by the respondent. Further, the petitioners have established that they are the legal representatives of the deceased, and nothing is placed by the Respondent as to disbelieve the version of the Petitioners. Therefore, in the event of allowing the petition, no other persons will be put into loss or injustice. On the other hand, in the event of the rejecting the petition, the petitioners will be put into the great hardship and injury. At these circumstances of the case, the petition is deserves to be allowed. Accordingly, this court answers point No.1 ***in the Affirmative.***

11) Point No.2: In view of the above findings on point No.1, this court proceed to pass the following.



ORDER

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

The respondent is hereby directed to enter the date of death of the deceased by name Smt.Nagamma @ Kamalamma W/o Nanjegowda, as died on 20.03.2020 at Bilugula Village, Kasaba Hobli, Mudigere Taluk, in concerned death register and to issue death certificate in favour of the petitioners after deposit of requisite fee, if any.

The said entry shall not be a conclusive proof of death and if in case of any dispute there exist, the death entry shall be subject to proof.

(Dictated to the Stenographer, directly typed by her on computer, corrected and then pronounced by me in the open court on 30th day of March 2023, at Mudigere)

Sd/-

(Vishwanath A.)

C/c Prl. Civil Judge & JMFC.,
Mudigere.



: A N N E X U R E :

LIST OF WITNESS EXAMINED ON BEHALF OF PETITIONER:-

PW1 : Smt.Meenakshi

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF PETITIONER:-

Ex.P1 : Non availability certificate

Ex.P2 : Genealogy Certificate.

Ex.P3 & 4 : Paper publications published in Jilla Suddi
Madyama and Malenadu Nakshathra daily
news papers.

Ex.P5 & 6 : Notarized copies of Aadhar cards.

Ex.P7 : Notarized copy of Hakkupathra.

Sd/-

(Vishwanath A.)

C/c Prl. Civil Judge & JMFC.,
Mudigere.

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