

KAKL410000092026



Presented on : 07-01-2026
Registered on : 07-01-2026
Decided on : 09-06-2026
Duration : 5 months, 2 days.

IN THE COURT OF SENIOR CIVIL JUDGE AND J.M.F.C.,
AT: MULBAGAL

Present: **Sri.GOWDA JAGADEESHA RUDRE.**
B.Com., L.L.B.
Senior Civil Judge and JMFC., Mulbagal.

DATED ON THE 09th DAY OF JUNE-2026

Crl.Misc.No.1/2026

PETITIONERS	1.	Smt.Chandramma W/o late Ramakrishnappa, Aged about 65 years.
	2.	Sri.Gopalakrishna S/o late Ramakrishnappa, Aged about 50 years.
	3.	Sri.Nagabhushan S/o late Ramakrishnappa, Aged about 48 years.
	4.	Sri.Ramantha S/o late Ramakrishnappa, Aged about 46 years.
	5.	Sri.Lakshmipathi S/o late Ramakrishnappa, Aged about 38 years.
	6.	Smt.Manjula D/o late Ramakrishnappa, Aged about 40 years. All are R/at: Kadareepura Village, Kasaba Hobli,

		Mulbagal Taluk, Kolar District.
Petitioners R/by:- Sri.M.N.R, Advocate.		
		V/s
RESPONDENT		The Tahasildar, Mulbagal Taluk, Mulbagal.
		(Ex-Parte)

ORDER

The Petitioners have filed this petition under Section 13(3) of Births and Deaths Act, 1969 seeking direction to the Respondent to enter the date of death of the maternal grandfather of Petitioner No.1 and great grandfather of Petitioner No.2 to 6 by name Ellana Bhovi S/o late Sallapurappa on 09.05.1938 in register maintained by the Respondent authority.

2. After registration of petition, notice has been issued to the Respondent. Though, the said notice has been served, Respondent did not choose to oppose the petition. The Petitioners have also directed to takeout paper publication as mandated by the Hon'ble High Court of Karnataka in the decision of *Muniyamma V/s Devegowda reported in 2013 SCC OnLine Kar 5065*. Even after the paper publication none had appeared before the Court opposing the claim. Hence, objection to main petition taken as not filed.

3. The Petitioner No.1 examined herself as PW-1 & got marked 10 documents which are marked at Ex-P.1 to 10 i.e. Non-Availability Certificate at Ex-P.1, family tree issued by Tahasildar at Ex-P.2, 6 notarized copies of Aadhar Card at Ex-P.3 to 8, Two News Papers marked at Ex-P.9 and 10, Particular portions of News papers marked at Ex-P.9(a) and 10(a).

4. Heard arguments on Petitioners side.

5. The following points arise for my consideration:-

1) Whether the Petitioners proves that deceased Ellana Bhovi S/o late Sallapurappa died on 09.05.1938 in Khadareepura Village, Kasaba Hobli of Mulbagal Taluk?

2) Whether the Respondent is to be directed for registering the date of death of the deceased Ellana Bhovi S/o late Sallapurappa in the concern register?

3) To what Order?

6. My answer to the above points as follows:-

Point No.1 and 2 : In the **Affirmative**.

Point No.3 : As per final order for the following:-

REASONS

7. **POINT No.1 & 2:-** These points are interlinked to each other, hence they are taken up together for common discussion and to avoid repetition of facts.

8. The Petitioner No.1 orally examined in chief as PW-1 and deposed that there are no civil case is pending against her. Likewise, she has not filed any civil cases. She also deposed that her maternal grandfather died on 09.05.1938 at Khadareepura Village, Kasaba Hobli, Mulbagal Taluk. Due to inadvertence and lack of legal knowledge she has not intimated the death of her maternal grandfather before the Respondent authority within the prescribed period. She deposed that, the death certificate of her maternal grandfather is very much essential for purpose of transfer of Khatha and other legal necessities. She deposed that when she applied for death certificate of her maternal grandfather Ellana Bhovi S/o late Sallapurappa the Respondent

authority have issued non-availability certificate dated 08.12.2025 which is marked as Ex-P.1. The said document shows that there is no entry in respect of death of Ellana Bhovi S/o late Sallapurappa in the concerned register. To prove the relationship of PW-1 with deceased Ellana Bhovi S/o late Sallapurappa has produced the family tree which is marked as Ex-P.2. This document reveals that deceased Ellana Bhovi S/o late Sallapurappa maternal grandfather of Petitioner No.1 and great grandfather of Petitioner No.2 to 6. As per the directions of this Court, the Paper Publications were issued in “Kolara Shakthi” and “Kolara Kirana” Kannada daily newspapers on 18.01.2026. The said paper publications have been marked as Ex-P.9 and 10. The publication portions have been marked as Ex-P.9(a) and 10(a).

9. In this case, the Respondent authorities have issued Non-availability Certificate, which is marked at Ex-P.1. Since, the Petitioners have not informed the death of Ellana Bhovi S/o late Sallapurappa the Respondent authorities have rightly issued non-availability certificate. Under the Act, if the information of death have not been given within one year to the Respondent authority, the Petitioners have to approach Court for getting death certificate. Hence, the Petitioners have filed this petition. The evidence of PW-1 remained unchallenged. The reason assigned by the Petitioners is lack of knowledge. Under such circumstances, as there is provision under law to give direction to the Respondent.

10. Regarding probative value of entry made in pursuance of order of Magistrate under *Section 13(3) the Hon'ble High Court of Karnataka in State Of Karnataka vs Smt. Annakka reported in ILR 2000 KAR 4770* held as follows:- “*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.”

11. In view of above legal dictum, evidence on record and the facts of the case, it is a fit case to give direction to Respondent to register the death of Ellana Bhovi S/o late Sallapurappa. If the death certificate is ordered to issue, no harm will be caused to the Respondent. Thus, there is no hurdle in allowing the petition. If at all, the Respondent is having any grievance, definitely they would have come and contested the matter. Silent on their part discloses that, they have no objections to issue the death certificate. Hence, **Point No.1 and 2** are answered in the **AFFIRMATIVE**.

12. POINT No.3:- For the aforesaid reasons and discussions, Court proceed to pass the following:-

ORDER

The petition filed by the Petitioners under Section 13(3) of the Births and Deaths Act-1969 is hereby allowed.

The Respondent authority is hereby directed to enter the date of death of Ellana Bhovi S/o late Sallapurappa who died on 09.05.1938 at Khadareepura Village, Kasaba Hobli of Mulbagal Taluk in the register of death maintained by it after taking necessary charges if any.

The Respondent is also directed to mention in the death certificate that the same is issued in pursuance of this order.

It is made clear that, if any dispute arises in connection with the date of death or place of death, it will be subject to the decision of the competent Civil Court.

The Petitioners shall bear their own costs.

(Dictated to the Stenographer, directly on Computer and typed by him. The same is corrected and then pronounced by me in the open Court on this the 09th day of June-2026)

(GOWDA JAGADEESHA RUDRE)
Senior Civil Judge & JMFC.,
Mulbagal.

ANNEXURE		
<u>List of witnesses examined on behalf of the Petitioners:-</u>		
PW.1	:	Chandramma.
<u>List of documents marked on behalf of the Petitioners:-</u>		
Ex.P.1	:	Non-Availability Certificate.
Ex.P.2	:	Family tree.
Ex.P.3 to 8	:	Notarized copies of Aadhar Cards.
Ex.P.9 & 10	:	Two News Papers.
Ex.P.9(a)&10(a)	:	Particular portions of News papers.
<u>List of witnesses examined on behalf of the Respondent:-</u>		
-Nil-		
<u>List of documents marked on behalf of the Respondent:-</u>		
-Nil-		

Senior Civil Judge & JMFC,
Mulbagal.