

KAMS210035582025



IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC.,
AT H.D.KOTE

Present : **SRI.SANTHOSHA KOTARI**, B.A.L, L.L.B.,
Prl.Civil Judge & JMFC.,
C/c I Addl. Civil Judge & JMFC.,

Dated : **This the 13th Day of March 2026**

Crl.Mis.No.894/2025

- PETITIONERS :
1. Smt.Rathnamma
W/o.Varadanayaka
Aged about 58 years
 2. Smt.Channamma
W/o.Late.Ninganayaka
Aged about 64 years
Both are R/at Hosaheggudilu Village,
Saraguru Taluk.
 3. Smt.Sannamma
W/o.Late.Basavanayaka
Aged about 62 years
R/at Kandalike Village,
Saraguru Taluk.
 4. Smt.Sakamma
W/o.Basavaraju
Aged about 60 years
R/at Agathuru Village,
Saraguru Taluk.

(By Sri.Mahadevappa, Advocate)

RESPONDENT : The Tahashildar
Birth and Death Division
H.D.Kote Taluk,
Mysuru District.

(Ex-parte)

ORDER

The petitioners have filed this petition under Sec.13(3) of Registration of Births and Deaths Act 1969 seeking directions to respondent to enter the death particulars of deceased Smt.Javanamma W/o.Dasanayaka and issue a death certificate.

2. The summary of the case of the petitioners is as under:

The Grand Mother of Petitioners by name Smt.Javanamma W/o.Dasanayaka was died on 31.07.1981 at Hale Heggudilu Village, Saraguru Hobli, Saraguru Taluk, Mysuru District. Due to lack of knowledge the petitioners did not intimate the death of Smt.Javanamma W/o.Dasanayaka to the concerned authority. The petitioners have moved an application to the respondent for issuance of the death certificate of deceased Smt.Javanamma W/o.Dasanayaka. However, the respondent has issued a non availability certificate, informing that there is no entry found in the register of death and issued non-availability certificate. The petitioners requires the death certificate of deceased Smt.Javanamma W/o.Dasanayaka for the purpose of change of katha. Hence, this petition.

3. The petitioners have caused a public notice in Rajyadharma a Kannada Daily news paper in its edition

dated 01.01.2026 about the present proceedings. No person has appeared in response to said citation. The respondent remained absent even after the service of the notice. Hence the proceedings continued treating the respondent as *exparte*.

4. The petitioner No.1 adduced her evidence as PW-1 and produced as many as documents and they are marked as Ex.P1 to Ex.P9.

5. I have heard the arguments addressed by learned advocate for the petitioners. I have gone through the materials available on record. The following points arise for my consideration.

POINTS

- 1) Whether the petitioners have made out a case for allowing the petition?
- 2) What order?

6. My findings to the above points is as under:

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

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

REASONS

7. **Point No.1:-** In order to prove the case, petitioner No.1 examined herself as PW-1 and filed affidavit in lieu of her examination in chief and reiterated the petition averments, hence repetition is not necessary. Further, in support of her oral evidence, she has produced as many as 9 documents and they are marked as Ex.P1 to Ex.P9. Ex.P1

is non availability certificate. Ex.P2 and 3 are the reports of Village Accountant, Revenue Inspector and certified copy of Mahazar. On perusal of the same, it discloses that the date of death of deceased Smt.Javanamma W/o.Dasanayaka is not registered in the register maintained by the respondent. Further, Ex.P4 is Genealogical tree of the petitioners, which discloses the relationship of the petitioners with the deceased Smt.Javanamma W/o.Dasanayaka. Ex.P5 is Rajyadharma a Kannada daily news paper, Ex.P5(a) is concerned paper publication. Ex.P6 to Ex.P9 are Notarized Copies of Aadhar Cards of Petitioners. It is pertinent to note that inspite of service of notice, the respondent for the reasons best known to him, has remained absent and not made any attempt to file objection or deny the document produced by the petitioners. As such the evidence of the petitioner remained unchallenged and uncontroverted. Therefore, there is no reason to disbelieve the evidence given by petitioner.

8. It is also a trite that in a proceeding under Sec.13(1) (3) of Registration of Births and Deaths Act, Court is concerned with the factum of birth or death and date of birth or death is not relevant. This proposition finds support from the ratio laid down by Hon'ble High Court of Karnataka in the matter of **State of Karnataka V/s. Smt. Annakka reported in 2000(4) KCCR 2674**, which reads thus:

**“REGISTRATION OF BIRTHS AND DEATHS ACT
1969- Sec.13(3)- Direction to make an entry in the**

Birth Registration by the Magistrate-Challenged on the ground, that except the statement of applicant on oath there was no other material.

Held: Magistrate in a proceeding under Sec. 13(3) only ascertains the birth of the child and date is not the material consideration, as such directions bind only the Registration Office under the Act to make an entry and does not carry higher probative value”.

9. Reverting to the factual matrix of the petitioners case, petitioners have stated in their petition as well as the PW-1 in her examination in chief that Grand Mother of Petitioners was demised on 31.07.1981 at Haleheggudilu Village, Saraguru Hobli, Saraguru Taluk, Mysuru District. Therefore, in the light of the principles emerged from the decision referred to above, petition is required to be allowed. Hence, I answer the **Point No.1 in the Affirmative.**

10. **Point No.2:-** For the foregoing reasons, I pass the following:-

ORDER

Petition filed by the petitioners under Sec. 13(3) of Registration of Births and Deaths Act 1969 is hereby allowed.

Respondent is directed to enter the death particulars of “Smt.Javanamma W/o. Dasanayaka, demised on 31.07.1981” in the concerned records and issue a death certificate

accordingly, to the petitioners after collecting necessary fee.

The parties to bear their respective costs.

(Direct dictation given to the Stenographer, transcript and computerized by her, revised, corrected and then pronounced by me in the open Court, on this the **13th day of March 2026**)

(SANTHOSHA KOTARI)
C/c I Addl. Civil Judge & JMFC.,
H.D.Kote.

A N N E X U R E

The witnesses examined for the Petitioners:

PW-1 : Smt.Rathnamma

The documents exhibited for the Petitioners:

Ex.P1 : Non-availability certificate
Ex.P2 and Ex.P3 : Reports of Village Accountant, Revenue Inspector and certified copy of Mahazar
Ex.P4 : Genealogical tree of the petitioner
Ex.P5 : Rajyadharma Kannada daily news Paper
Ex.P5(a) : Concerned paper publication
Ex.P6 to Ex.P9 : Notarized Copies of Aadhar Cards of the Petitioners

The witnesses examined and documents Exhibited for the respondent:

NIL

(SANTHOSHA KOTARI)
C/c I Addl. Civil Judge & JMFC.,
H.D.Kote.