

IN THE COURT OF THE XVI ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE, BENGALURU CITY

Dated:- This the 17th day of April, 2023

Present: Sri.N.M.RAMESHA, B'com, L.L.M
XVI Addl.C.M.M., Bengaluru City.

Case No. : **C.Misc.No.1733/2023**

Complainant : **Mohammed Saleem**
S/o J.M.Sardar Sab
Aged about 43 years,
R/at No.196, 1st Main Road,
11th Cross, Bapuji Nagar,
Bangalore-560026.

(By Sri.Harisha.J Adv.,)

- Vs -

Accused : **The Registrar of Births and
Death,**
Office of the Commissioner,
BBMP, **Bangalore.**

(By Smt. Girija.B., Adv.,)

Date of order : 17.04.2023

O R D E R

The Petitioner has filed this petition U/s 13(3) of
Karnataka Registration of Births and Deaths Act 1969

to direct the respondent to enter the date of birth of the petitioner's daughter as 28.08.2006 in the concerned birth register and to issue birth certificate.

2. The case of the petitioner in brief is as under:-

The petitioner's daughter was born on 28.08.2006. The petitioner is in need of Birth Certificate for bonafide use and also for documentation purpose. For want of knowledge and procedure, legal obligation could not be complied in time. For want of entry, the respondent has issued an endorsement. Hence the petitioner approached this court. Hence this petition.

3. On service of notice, the respondent has appeared before this court through his learned counsel and has filed objections denying the material averments made in the petition. The petitioner has been called upon to prove the material averments made in the petition. The material averments made in the petition are not within the knowledge of respondent. The petition is stated to be misconceived. The Petitioner has not produced any supportive documents to prove his case. The relief sought in the petition is stated to be not maintainable. The alleged cause of action is stated

to be imaginary. The documents produced by the Petitioner are all created and insufficient to grant the relief claimed in the petition. It is on these grounds, the respondent has prayed for dismissal of the petition.

4. On behalf of petitioner, the petitioner has been examined himself as PW.1 and got the documents marked as **Ex.P.1 to P.6**. The respondent has not adduced any evidence on his behalf.

5. I have heard the arguments of learned counsel for both the sides and perused the oral and documentary evidence placed on record.

6. Now the points that would arise for my consideration are as under:-

1. Whether the petition filed by the petitioner under the provisions of Sec.13(3) of the Karnataka Registration of Births and Deaths Act is deserves to be allowed?
2. What Order?

7. On considering the evidence on record, now my answer to the above points are as under:

Point No.1: In the Affirmative

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

REASONS

8. **POINT No.1**: The petitioner has filed this petition under the provisions of Sec.13(3) of Karnataka Registration of Births and Deaths Act of 1969 seeking direction to the respondent to enter date of birth of petitioner's daughter as 28.08.2006 in the concerned Birth Register.

9. The petitioner has filed his affidavit in chief examination wherein he reiterated and reaffirmed the contents of the petition. The petitioner has produced the Non-availability certificate, Notarized copies of Study Certificate of daughter of PW.1, Aadhar Cards of his wife and daughter, Election Identity Card and Driving Licence of himself and they are marked as per **Ex.P.1 to P.6** through the evidence of PW.1.

10. PW-1 in his cross-examination has denied the suggestion that the documents produced by him are all fake documents. Further, he has denied the suggestion that he is deposing false evidence before the court. However, the respondent has not adduced any

oral evidence and also not produced any documentary evidence on his behalf.

11. On the other hand, the documents produced by the Petitioner as per **Ex.P1 to P6** reveals that, the date of birth of the **Petitioner's daughter by name Ayesha., D/o.Mohammed Saleem and Smt.Khushu Taj** is **28.08.2006**. But it has not been entered in the concerned register. The date of birth of the petitioner's daughter is mentioned as 28.08.2006 in the public documents. The date of birth as sought for in the petition and the date of birth as mentioned in the public documents at Ex.P.2 and P.4 are one and the same. Hence, there are no reasons to disbelieve or to discard the oral evidence of PW.1 and documentary evidence at Ex.P.1 to P.6. Under these circumstances, if the respondent is directed to enter the date of birth of the petitioner's daughter as 28.08.2006 in the concerned register and then to issue the birth certificate to the petitioner, then it would meet the ends of justice. Therefore the petition is deserves to be allowed. Hence for the reasons discussed above, I answer Point No.1 in the Affirmative.

12. POINT No.2: In view of my findings on point No.1, I proceed to pass the following:

O R D E R

The petition filed by the petitioner under the provisions of Sec.13(3) of Karnataka Registration of Births and Deaths Act 1969 is hereby allowed.

The Respondent is hereby directed to enter the date of birth of the **Petitioner's daughter by name Ayesha., D/o.Mohammed Saleem and Smt.Khushu Taj** is **28.08.2006** in the concerned register and issue the Birth Certificate of the Petitioner, after collecting the prescribed fee, as per law.

This order and direction issued to respondent is binding on the parties to the proceedings only.

(Directly dictated to the stenographer online, printout taken by her, verified, corrected and then pronounced by me in the open Court on this the 17th April 2023).

(SRI.N.M.RAMESHA),
XVI ACMM, Bengaluru City.

ANNEXURE

1. List of witness/s examined on behalf of the Complainant:-

P.W.1 : Mohammed Saleem

2. List of documents exhibited on behalf of the Complainant:-

- Ex.P.1 : Non Availability Certificate.
Ex.P.2 : Notarized copy of the Study Certificate of daughter of PW.1
Ex.P.3 : Notarized copy of the Aadhar Card of wife of PW.1
Ex.P.4 : Notarized copy of the Aadhar Card of daughter of PW.1
Ex.P.5 : Notarized copy of the Driving Licence of PW.1
Ex.P.6 : Notarized copy of the Election Identity Card of PW.1

3. List of witness/s examined on behalf of the Accused:-

- Nil-

4. List of documents exhibited on behalf of the Accused:-

- Nil-

(SRI.N.M.RAMESHA),
XVI ACMM, Bengaluru City.

17.04.2023

**Order pronounced in Open Court
(Vide separate order)**

O R D E R

The petition filed by the petitioner under the provisions of Sec.13(3) of Karnataka Registration of Births and Deaths Act 1969 is hereby allowed.

The Respondent is hereby directed to enter the date of birth of the **Petitioner's daughter by name Ayesha., D/o.Mohammed Saleem and Smt.Khushu Taj** is **28.08.2006** in the concerned register and issue the Birth Certificate of the Petitioner, after collecting the prescribed fee, as per law.

This order and direction issued to respondent is binding on the parties to the proceedings only.

XVI ACMM, Bengaluru City.

