

**IN THE COURT OF 36TH ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE, BENGALURU.**

Present:-

**Sri. Hanamantarao R.Kulkarni
B.Com., LL.B.,
36th Addl. Chief Metropolitan Magistrate,
Bengaluru.**

Cri.Misc.No.3614/2022

Dated this the 11th day of August, 2022

1. Bhimaraya M s/o Mallappa, Aged about 42 years, R/at No.149/2, 5th H cross, Rajeev Gandhinagar, Laggere, Bengaluru-560058 represented by SPA holder his uncle Mallikarjun

.....Petitioner

(By Sri.Manjunath B., advocates)

-Versus-

1. The Commissioner,
The BBMP, Birth and Death Registrar,
Bengaluru.

... Respondent-

Absent.

ORDER

1. The instant petition has been filed by the petitioner under Sec.13(3) of the Registration of Births and Deaths Act seeking direction of this Court to the respondent to register the date of birth of the petitioner by name Bhimaraya M s/o Mallappa and Eramma on 08/07/1980 in the concerned birth register.
2. The brief facts of the case of the petitioner are as under:
It is the contention of the petitioner that he has been born on 08/07/1980 at Bengaluru. It is pleaded that

when the petitioner has approached the respondent for the purpose of getting birth certificate, respondent has not registered date of birth in the concerned register. Therefore, it is required for relevant purposes. Further, the petitioner has filed an application before the respondent for issuing birth extract of him, but the respondent has issued non-availability certificate stating that birth of petitioner named above is not registered in register of births. Hence, the present petition.

3. Though the notice has been served on the respondent, he has not appeared before the Court, hence he has been placed ex-parte.
4. The petitioner in order to prove his case examined himself as P.W.1 and got marked five documents at Ex.P.1 to Ex.P.5 and closed his side.
5. I have heard the learned Counsel for the petitioner.
6. After the perusal of the case the following points would arise for my consideration:
 - 1) Whether the petitioner is entitled for the relief as sought in the petition?
 - 2) What order?
7. My findings on the above points are as follows:
Point No.1: **In the AFFIRMATIVE.**
Point No.2: **As per final order** for the following:

R E A S O N S

8. **Point No.1:** The petitioner in order to prove his case examined his uncle as P.W.1 and got marked five documents at Ex.P1 to E.P5. P.W.1 in his evidence has stated that his son has been born on 08/07/1980 at Bengaluru. It is pleaded that when he has approached Birth Registrar for the purpose of getting birth certificate, but respondent has not registered date of birth in concerned register. It is further contended that he has not informed the date of birth due to un-awareness of

the law. Ex.P.1 is the non-availability certificate issued by the respondent wherein it is mentioned that date of birth of petitioner is not recorded in concerned register. He has also produced notarised copy of SPA, two Aadhar cards and SSLC marks card which are marked at Ex.P2 to 5. The oral and documentary evidence adduced by PW1 is sufficient to hold that his son has born on 08/07/1980. Accordingly, I answer this point in the affirmative.

9. Point No.2: In the result, I proceed to pass the following:

ORDER

The petition filed by the petitioner Under Sec. 13(3) of Birth and Death Registration Act, 1969 is hereby allowed.

The respondent is directed to register the date of birth of the petitioner by name Bhimaraya M s/o Mallappa and Eramma as on 08/07/1980 at 149/2, 5th H cross, Rajeev Gandhinagar, Laggere, Bengaluru-58 in the concerned birth register and issue birth certificate after collecting the late fee.

(I have directly typed on my laptop and corrected and then pronounced by me in the open Court on this the 11th day of August, 2022.)

(Hanamantarao R.Kulkarni)

36th Addl. Chief Metropolitan Magistrate, Bengaluru.

ANNEXURE

Witnesses examined on behalf of the Petitioner:

PW.1. : Mallikarjun

For Respondent : Nil.

Documents marked on behalf of Petitioner:

Ex.P.1: Non Availability Certificate

Ex.P.2: Notarised copy of SPA

Ex.P3 and 4: Notarised copies of AADhar cards

Ex.P5: Notarised copy of SSLC marks card

(Hanamantarao R.Kulkarni)

36th Addl. Chief Metropolitan Magistrate, Bengaluru.

(Order pronounced in Open Court)

ORDER

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(Hanamantarao R.Kulkarni)

36th Addl. Chief Metropolitan Magistrate, Bengaluru.