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| MHRT050003382022  | <u>Cri.M.A.No.60/2022</u> Rajendra Keru Raut Vs. B.D.O., Panchayat Samiti Khed, Etc.2 |
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ORDER BELOW EXH.1

01. This is an application filed under Section 13(3) of Registration of Birth and Death Act, 1969 for issuance of direction to take an entry of death of the applicant's grandmother on 17.04.1985 in the appropriate register maintained by the non-applicants.

02. The said application is filed on 21.03.2022 and pending for evidence. It is pertinent to note that an amendment in Section 13(2) and (3) of the said Act has come in force by virtue of notification issued by the Central Government and has given effect from 01.10.2023.

03. It is pertinent to note that by virtue of the said amendment, the legislature has changed the forum which has jurisdiction to issue such directions on delayed information, for registration of birth or death. More particularly this amendment is procedural in nature. In such set of circumstances, when forum is changed and amendment is procedural in nature, question arises as to whether such amendment has prospective or retrospective effect in operation.

04. In this regard, I have relied upon the ruling *Shamrao Vithoba Pillare Vs. State of Maharashtra in Criminal Application No.1146/2018 on 13.12.2018* The Hon'ble Bombay High Court Nagpur Bench, Hon'ble Justice Z.A. Haq held that,

“However, the submission on behalf of the applicant that change in forum by the Maharashtra Act No.40/2018 also cannot have retrospective effect, cannot be accepted. In the judgment delivered in the case of *Ramesh Kumar Soni Vs. State of Madhya Pradesh reported in (2013) 14 S.C.C. at page 696*, this issue is considered. In this judgment, it is laid down that any amendment shifting the forum of the trial, on principle, has to be retrospective in nature unless there is any indication in the amendment act to the contrary. The accused cannot claim a vested right in respect of forum for his trial, as such right is not recognized or conferred by law. Same view is reiterated in the judgment given in the case of *Securities and Exchange Board of India Vs. Classic Credit Ltd. reported in 2017(9) SCALE at page 4*. The submission on behalf of the applicant that the learned Chief Judicial Magistrate should not have committed the trial after recording of the evidence of the witness commenced also cannot be accepted considering the provisions of Section 323 of the Code of Criminal Procedure. These provisions enable the Magistrate to commit the trial to the Court of Sessions at any stage of the proceedings before signing the judgment. Even otherwise, in the facts of the present case, the accused has not been able to point out the prejudice that may be caused to him because the trial is committed by the learned

Chief Judicial Magistrate to the Court of Sessions after recording of the evidence of the first witness on behalf of the prosecution has started.”

05. In view of the said ruling, the same principle is applicable to the case in hand. By virtue of amendment in the Act, the authority to issue direction for taking an entry of birth or death in a register has been given to the District Magistrate or Sub-divisional Magistrate or Executive Magistrate. The said amendment has retrospectively effect. This is mean to say all pending matters connecting with Section 13(3) of the Act have to be adjudicated by the competent authority contemplated under the Amended provision. Therefore, this court has lost it's jurisdiction. Hence, I pass the following order:

ORDER

01. In view of loss of jurisdiction by virtue of amendment in Section 13(3) of the Act, the petition is disposed off.
02. The applicant is at liberty to apply for the issuance of directions as contemplated in the Amended Section 13 of The Registration of Births and Deaths Act, 1969, afresh.
03. Accordingly, application is disposed off.

Date : 10.03.2026

[D. G. Mhaske]
Judicial Magistrate, First Class,
Khed, Dist.Ratnagiri

CERTIFICATE

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| Case No. | : Cri.M.A.No.60/2022 |
| I affirm that the contents of this pdf file order are same word as per original Judgment/order. | |
| Name of Clerk | : Shri. J. D. Ambekar |
| Court Name | : Jt. C.J.J.D. & J.M.F.C. Court, Khed. |
| Date of Decision | : 10.03.2026 |
| Judgment/Order signed by Presiding Officer on | : 10.03.2026 |
| Judgment/Order uploaded on | : 11.03.2026 |