

Misc. Cri. Application No.141/2023
Lalaso Laxman Salunkhe
versus
Village Gramsevak, Hajarmachi,
Tal.-Karad, Dist.-Satara
CNR No-MHST07-001353-2023

ORDER BELOW EXH.1 IN CRI. M. A. NO. 141/2023

This is an application filed for taking entry of death of the applicant's mother Radhabai Laxman Salunkhe. It is contended that, his mother was died on 19.12.2018, at Mouje Hajarmachi, Tal. Karad, Dist. Satara. However, the fact of her death remained to be noted in relevant register of the Government. Hence, it is prayed that, the concern authority be directed to take entry of death of applicant's mother in the relevant register.

02. Notice was issued to the respondent. He filed his say (**Exh. 10**) and contended that, on checking the birth and death register there is no record of death of Radhabai Salunkhe was found in the records of Village Panchayat, Hajarmachi.

03. A public citation (**Exh.9**) was issued on 29.04.2023 in "Dainik Tarun Bharat" for calling objections of public at large for taking entry of death of the applicant's mother as prayed in the application. However, no one appeared or raised any objections to it.

04. Following points arise for my determination, to which findings are recorded with reasons given below.

SR.NO.	POINTS	FINDINGS
1.	Whether applicant has prima facie established that his mother is died on 19.12.2018 ?	Yes.
2.	What Order ?	Application is allowed.

05. The application relied upon the following documents-

Sr. No.	Document	Date	Exhibit No.
1.	Certificate issued by Hajarmachi Village Grampanchayat Tal. Karad, Dist. Satara.	21.11.2022	3/1
2.	Verified copy of Aadhar Card of the applicant.	16.03.2023	3/2
3.	Verified copy of Voting Card of the deceased Radhabai Laxman Salunkhe.	16.03.2023	3/3
4.	Verified Copy of Ration Card of the applicant.	16.03.2023	3/4
5.	A public citation issued in "Dainik Tarun Bharat".	29.04.2023	9
6.	Say of respondent, Village Grampanchayat, Hajarmachi., Tal. Karad.	10.05.2023	10
7.	Affidavit of examination in chief of the applicant.	16.03.2023	11
8.	Affidavit of examination in chief of witness Aniket Lalaso Salunkhe.	03.07.2023	12
9.	Evidence Close purshis of applicant.	03.07.2023	13

REASONS

06. The applicant has filed his affidavit of examination in chief (**Exh.11**), wherein he has reiterated his contentions in the application. He also stated that, due to ignorance and due to lack of legal knowledge he and his family members are failed to register entry of death of his mother in the Village Panchayat, Mouje Hajarmachi, Tal. Karad, Dist. Satara.

07. As discussed earlier, Village Panchayat Mouje Hajarmachi, Tal. Karad, Dist. Satara has intimated that, no such entry of death of applicant's mother is found in the available record. This again supports the averments made in the application about the fact that, the intimation of death of applicant's mother was remained notified with the concerned authority.

08. Section 13(3) of the Registration of Birth and Death Act, 1969 and Maharashtra Registration of Birth and Death Rules, 1976 provides as under:

“Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of The First Class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of prescribed fee.”

09. From clear reading of the Section 13(3) of the Act, it is necessary for the court to take verification and such verification has to relate only to the correctness of the fact of birth or death. In other words, the Magistrate will have to be satisfied, that the birth or death had in fact taken place.

10. In the present case, applicant has stated on oath that, his mother was died on 19.12.2018, said contention of the applicant is very well supported by the other witness namely Aniket Lalaso Salunkhe. He has filed affidavit of examination in chief (**Exh.12**) and contended that, deceased Radhabai Salulnkhe was his grandmother. Due to old age she was died on 19.12.2018. Therefore, from a perusal of the record and evidence, it appears that the applicant's mother is died on 19.12.2018.

From a perusal of the say of respondent (**Exh.10**), it is seen that, entry about the death of the applicant's mother has not been taken in concern register. The law provides that the same can be taken.

11. Moreover, Section 15 of the Act has provides that if any entry is found erroneous, same can be canceled or corrected and it is always open for anybody to agitate the claim and then get the required declaration from the competent Civil Court.

12. Therefore, from above discussion and observations, the applicant has prima facie established the fact of death of his mother on 19.12.2018. Hence, the finding to point no.1 is recorded as affirmative and in answer to point no. 2, I pass the following order:-

ORDER

1. The application is allowed.
2. The Village Panchayat, Mouje Hajarmachi, Tal. Karad, is directed to take necessary entry of death of applicant's mother namely Radhabai Laxman Salunkhe on 19.12.2018, on requisite fee as per the Maharashtra Registration of Birth and Death Rules, 1973.
3. It is made clear that, said entry be taken subject to any declaration from the competent Civil Court.
4. Accordingly, application is disposed off.

Place : Karad
Date : 03.07.2023

(**Smt. P. G. Shelar**)
6th Judicial Magistrate F. C., Karad.