

IN THE COURT OF THE 1st ADDL.CMM: BENGALURU

Dated this the 11th day of October 2021.

**Present: Shri Anand T Chavan, B.Com., LL.B(Spl.).
I Addl. C.M.M BENGALURU.**

C.Misc.No.3120/2021

Petitioner : Somashekhara B.T..
S/o Thimmaiah,
aged about 41 years,
residing at No.5, 10th Cross,
Havanoor Lay out,
Bagalgunte,
Bengaluru,

(Rep. by J.Manjunath Adv.)

Respondent : The Commissioner,
Registrar of Birth and Death,
BBMP, Bengaluru.

ORDER

The petitioner has filed the petition under Section 13(3) of Registration of Births and Deaths Act, 1969, seeking direction to the respondent to enter the date of

death of his wife Ashwini B.S. W/o. Somashekhar in Register maintained by the respondent.

2. The brief facts of the petitioner's case is as follows:

The wife of petitioner by name Ashwini B.S. W/o. Somashekar passed away on 23.07.2011 at no.5, Havanoor lay out, Nagasandra Post, Bagalagunte Bengalor. Due to innocence and non awareness of procedure and also due to bonafide reasons petitioner's family members did not report death of said Ashwini before concerned authorities. Hence same is not register in concerned register maintained by respondent. When petitioner approached respondent for issuance of death certificate, said office issued non availability certificate on 29.11.2013. The petitioner requires death certificate of his aforesaid wfie. These amongst other grounds, it is prayed to allow the petition.

3. The respondent remained absent, despite service of notice and he is placed ex-parte. Petitioner has also produced Hosa Diganth Kannada news paper and Indian Express News paper dated 23.09.2021, showing publication of notice of petition in news papers as per judgment of Hon'bel High Court of Karnataka in ILR 2013 KAR 4703 and none have appeared as parties in pursuant to such public notice.

4. The petitioner got examined himself as P.W.1 and got marked Non availability certificate issued by respondent as per Ex.P1.

5. Heard arguments.

6. The following points arise for my consideration.

1. Whether the petitioner is entitled for the relief claimed ?

2. What Order ?

7. 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:-** wife of petitioner by name Ashwini B.S. W/o. Somashekar passed away on 23.07.2011 at no.5, Havanoor lay out, Nagasandra Post, Bagalagunte Bengalor. Due to innocence and non awareness of procedure and also due to bonafide reasons petitioner's family members did not report death of said Ashwini before concerned authoriteis. Hence same is not register in concerned register maintained by respondent. When petitioner approached respondent for issuance of death certificate, said office issued non availability certificate on 29.11.2013. In this regard P.W.1 has entered into witness box as P.W.1 and reiterated the averments of petition. He has produced

Non-availability certificate issued by the respondent as per Ex.P1, which indicates that the event relating to death of his wife is not registered in the office of the respondent. The evidence of P.W.1 is not challenged by respondent side. Hence, there is no reason to disbelieve and discard the same. So, there is no hurdle to direct the respondent to register the event relating to the death of wife of petitioner in the register maintained by the respondent. Hence, I answer point No.1 in the **Affirmative**.

9. **Point No.2:-** For the reasons and findings given on point No.1, following is:

ORDER

Petition filed by the petitioner under Section 13(3) of Registration of Births and Deaths Act, 1969 is allowed.

The respondent is hereby directed to register the event relating to death of wife of petitioner by name Ashwini B.S. W/o. Somashekar passed away on 23.07.2011 at no.5, Havanoor lay out, Nagasandra Post, Bagalagunte Bangalore. in the death register maintained by his office.

No order as to costs.

(Anand T Chavan)

1st Addl. CMM., Bengaluru.

ANNEXURE

List of witnesses examined on behalf of the petitioner:-

P.W.1, Somashekar;

List of documents marked on behalf of the petitioner:-

Ex.P1, Non-availability certificate,

Witnesses examined on behalf of respondent, documents
marked:- NIL.

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Order pronounced in Open Court (vide separate order)

ORDER

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The respondent is hereby directed to register the event relating to death of wife of petitioner by name Ashwini B.S. W/o. Somashekar passed away on 23.07.2011 at no.5, Havanoor lay out, Nagasandra Post, Bagalagunte Bangalore. in the death register maintained by his office.

No order as to costs.

(Anand T Chavan)
1st Addl. CMM., Bengaluru.

