

**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.2067/2022

Dated this the 06th day of August, 2022

1. Binoy Varghese
S/o Late Chacko Varghese
a/a 38 years, R/o. No. 101, 4th Cross
Adarshnagar, Opp Matha National School
Nagarbhavi 1st Phase
Bangalore-560072
2. Mercy Chacko
W/o. Late Chacko Varghese
A/a 60 years
R/o. No.20, 1st Main D Street
New Guddadahalli
Bangalore-560026
3. Anie Reji, D/o. Late Chacko Varghese
a/a 44 years, R/o. Keecheril Peedikayil
Vadakke Mankuzhy
Pallarimangalam Mavelikara
Thekkekara, Alapuzha, Kerala
4. Reni Varghese, D/o. Late Chacko Varghese
A/a 42 years, R/o. No.1, 12th Cross, Ejipura Main Road
Ejipura, Vivekanagar, Bangalore-560047

.....Petitioners

(By Smt. Sumathi C M, advocate)

-Versus-

1. The Registrar/Commissioner,
Bruhat Bangalore Mahanagara Palike,
Bengaluru.

... Respondent-Absent

ORDER

1. The instant petition has been filed by the petitioners 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 death of the petitioner no.1's father by name Chacko Varghese as on 29/05/2017 at Bengaluru-560 072, in the concerned death register.

2. The brief facts of the case of the petitioners are as under:

It is the contention of the petitioner No.1 that his father was died on 29/05/2017 at Bengaluru-560 072. It is pleaded that when the petitioner No.1 has approached the respondent for the purpose of getting death certificate, respondent has not registered date of death in the concerned register. Therefore, it is required for relevant purposes. Further, the petitioner No.1 has filed an application before the respondent for issuing death extract of his father but respondent has issued non-availability certificate on 18/03/2022 stating that death of his father named above is not registered in register of deaths. Hence the present petition.

3. In response to the notice, the respondent has not appeared and placed exparte.
4. The petitioners in order to prove their case examined Petitioner No.1 as P.W.1 and got marked twelve documents at Ex.P.1 to Ex.P.12 and closed their side.
5. Heard the learned Counsel for the petitioners.
6. After the perusal of the case the following points would arise for my consideration:
 - 1) Whether the petitioner are 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:

REASONS

8. **Point No.1:** The petitioners in order to prove their case examined petitioner No.1 as P.W.1 and got marked twelve documents as Ex.P.1 to Ex.P.12. The P.W.1 in his evidence has stated that his father has died on 29/05/2017 at Bengaluru-560 072. It is pleaded that when P.W.1 has approached death registrar for the purpose of getting death certificate of his father, but respondent has not registered date of death in concerned register. It is further contended that he has orally intimated death of petitioner's father to respondent but respondent did not register death of his father in the concerned register. Ex.P.1 is the non-availability certificate issued by the respondent wherein it is mentioned that date of death of his father is not recorded in concerned register. Ex.P2

and Ex.P1 are the extracts of news papers published in the Indian Express and Hosa Diganta. He has also produced notarised copy of original Affidavit, notarised copy of 06 Aadhar Cards, notarised copy of Medical Certificate and notarised copy of Cemetary report. The oral and documentary evidence adduced by P.W.1 is sufficient to hold that his father has died on 29/05/2017. 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 petitioner Under Sec. 13(3) of Birth and Death Registration Act, 1969 is hereby allowed.

The respondent is directed to register the date of death of the petitioner no.1's father by name Chacko Varghese S/o. Late. Thambi P V as on 29/05/2017 at no. 101, 4th Cross, Adarshanagar, Mudalapalya, Bangalore-560072. in the concerned death register and issue death certificate after collecting the late fee.

(I have directly typed on my laptop, corrected and then pronounced by me in the open Court on this the 06th day of August 2022.)

(Hanamantarao R.Kulkarni)
36th ACMM, Bengaluru.

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ANNEXURE

Witnesses examined on behalf of the Petitioner:

PW.1. : Binoy Varghese

For Respondent : Nil.

Documents marked on behalf of Petitioner:

Ex.Ps:

1. : Non Availability Certificate
2. : Extract of Indian Express news paper
- 2a : Portion of Indian Express news paper
3. : Extract of Hosa Diganta news paper
- 3a : Portion of Hosa Diganta news paper
4. : Notarised copy of original Affidavit
- 5 to 10 : Notarised copy of 06 Aadhar Cards
- 11 : Notarised copy of Medical Certificate
- 12 : Notarised copy of Cemetery Report.

(Hanamantarao R.Kulkarni)
36th ACMM, Bengaluru.

(Order pronounced in Open Court)

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(Hanamantarao R.Kulkarni)
36th ACMM, Bengaluru.

