

Crl. Misc 1044/2022

**IN THE COURT OF THE ADDL. CIVIL JUDGE & J.M.F.C.,
AT CHANNAPATNA.**

Present: Smt. Usharani.B.N., B.A, LL.B.LLM.,

**Addl. Civil Judge & JMFC.,
Channapatna.**

Dated: This 16th day of January-2023

CRL. MISC. No.1044/2022

Petitioners: 1. Sri. Guruprasad
S/o Late Kalabhovi @ pujaraiah
Aged about 50 years,
R/at: Valemaradadoddi Village,
Virupakshipura Hobli,
Channapatna Taluk,
Ramanagara District.

(By Sri. Shashidhara.M.R, Advocate)

//Versus//

Respondent : The Tahasildar,
The Birth and Death Registrar
Channapatna.
(Exparte)

O R D E R

The Petitioner has filed this Petition against the Respondent U/Sec.13 (III) of Births and Deaths Registration Act, 1969 seeking direction to the Respondent to enter the date of death of **Father** of the petitioner by name Sri. Kala Bhovi @ Pujaraiah S/o Late

Dodda Hanuma Bhovi, died on **27.07.2013** at Valemaradadoddi Village, Virupakshipura Hobli, Channapatna Taluk, Ramanagara District.

2. The averments of the Petition in brief are as under:

That the **Father** of the petitioner died on **27.07.2013** at Valemaradadoddi Village, Virupakshipura hobli, Channapatna Taluk, Ramanagara District. Respondent is the Registrar of Births and Deaths. The Petitioner could not inform the date of death of **Father** of the petitioner to the concerned Authority. The Petitioners have approached the Respondent for death certificate of **Father** of the petitioner. But, the Respondent has stated that date of death is not registered in the office and expressed his helpless for issuing the death certificate. In this regard, the Respondent has issued Non-availability Certificate. The Petitioner required Death Certificate of **Father** of the petitioner to getting change of khatha and other transaction. Hence, the Petitioner prayed to allow the Petition.

3. After filing of the petition, notice of the same was given to the Respondent and also paper publication was issued calling upon the public at large to appear and contest the matter by filing objections if any. The said notice has been duly served upon the Respondent failed to appear before this Court. Further there was no any

objection taken by the public at large. Thereafter, the petitioner in order to establish her claim the petitioner No.1 got examined himself as P.W.1 and got marked documents as Exs.P1 to P5.

4. Heard arguments.

5. The following Points are arise for consideration of this court:

1. Whether the Petitioner has made out grounds for allowing the present petition?

2. What Order?

6. The findings of this court to the above Points are as under:

POINT NO.1 : In the “Affirmative”

**POINT NO.2 : As per final order,
For the following: -**

REASONS

7. **POINT NO.1**: - The petitioner in this case got examined himself as PW.1 by reiterating the contents of the petition and in proof of the same, he got marked Ex.P1 to 5.

8. Ex.P1 is the Non-Availability Certificate, Ex.P2 is the Notarized genealogical tree affidavit, Ex.P3 is the Original Aadhar Card, Exs.P4 and Ex.P5 are the daily news papers.

9. This court perused the oral and documentary evidence available on record. It appears that the **Father** of the petitioner died on 27.07.2013 and the death of the **Father** of the petitioner was not registered in the Death Register maintained by the Respondent. Further, the Petitioner has produced '**Karunada Kanva**' and '**Bhoomiputhra**' Daily Newspapers dated:17.11.2022 respectively.

10. Though the notice was served on the Respondent. Respondent did not appear before this court Further nobody at public at large challenged the case of the Petitioners. The Petition averments and the evidence of PW.1 remained unchallenged by the Respondent. **In the case of Devamma V/S register of Birth and Death, Mysore report in AIR 2004 Karnataka 221-our Hon'ble High Court has observed that the correctness or otherwise of the date of birth concerned is totally irrelevant in the proceedings u/Sec.13(3) of the registration of Births and Deaths Act-1969 and it is only the fact of Death is relevant.** Hence, there are no reasons to disbelieve the case of the Petitioner. **Hence, this court answer Point No.1 in the 'Affirmative'.**

11. **POINT NO.2:** - In view of the above discussion, this court proceed to pass the following:

ORDER

The Petition filed by the Petitioner **U/Sec.13 (III) of Births and Deaths Registration Act, 1969** is hereby allowed.

The Respondent is directed to enter the date of death of the petitioner **Father** by name **Sri. Kala Bhovi @ Pujaraiah S/o Late Dodda Hanuma Bhovi, died on 27.07.2013 at Valemaradadoddi Village, Virupakshipura Hobli, Channapatna Taluk, Ramanagara District.** in the Death Register maintained by his and issue Death Certificate after collecting the necessary fees, etc. This entry shall not be the conclusive proof regarding the date of death if it is disputed in any criminal case or litigation.

Office is directed to return the documents in favour of petitioner after producing the certified copies of the same.

(Dictated to the Typist on online computer, Order corrected and signed by me, then pronounced by me in the Open Court on this the **16th day of January -2023**)

sd/-

(Smt. Usharani. B.N.)
Addl. Civil Judge & JMFC.,
Channapatna.

ANNEXURES

List of the Witnesses examined on behalf of Petitioner:

P.W.1 : **Sri. Guruprasad**

List of the Documents marked on behalf of Petitioner:

Ex.P1 : Non-Availability Certificate
Ex.P2 : Notarized Genealogical Tree affidavit
Ex.P3 : Original Aadhar Card
Ex.P4 : Karunada Kanva
Ex.P5 : Bhoomiputhra

List of the Witnesses examined on behalf of Respondents:

--Nil--

List of the Documents marked on behalf of Respondents:

--Nil--

Sd/-

Addl. Civil Judge & JMFC.,
Channapatna.

Order pronounced in open court

Vide separate order sheet

O R D E R

The Petition filed by the Petitioner **U/Sec.13 (III) of Births and Deaths Registration Act, 1969** is hereby allowed.

The Respondent is directed to enter the date of death of the petitioner **Grand Father** by name **Sri. Dodda Hanuma Bhovi S/o Late Kala Bhovi**, died on **15.04.1973** at **Valemaradadoddi Village, Virupakshipura Hobli, Channapatna Taluk, Ramanagara District.** in the Death Register maintained by her and issue Death Certificate after collecting the necessary fees, etc. This entry shall not be the conclusive proof regarding the date of death if it is disputed in any criminal case or litigation.

Office is directed to return the documents in favour of petitioner after producing the certified copies of the same.

Sd/-

Addl. Civil Judge & JMFC.,
Channapatna.

Crl. Misc 1044/2022