

Crl. Misc 1058/2022

**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 19th day of January-2023

CRL. MISC. No.1058/2022

Petitioners: 1. Smt.Puttankamma,
W/o Puttaiah
Aged about 69 years,
R/at: Megala Doddi, Chakkere Village,
Maluru Hobli,
Channapatna Taluk,
Ramanagara District.

(By Sri.Bhojgowda, 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 **mother** of the petitioner by name Smt.Boramma W/o Late Javaraiah, died on **21.07.1970** at Chakkere Village,

Malur Hobli, Channapatna Taluk, Ramanagara District.

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

That the **mother** of the petitioner died on **21.07.1970** at Chakkere Village, Malur Hobli, Channapatna Taluk, Ramanagara District. Respondent is the Registrar of Births and Deaths. The Petitioner could not inform the date of death of **mother** of the petitioner to the concerned Authority. The Petitioners have approached the Respondent for death certificate of **mother** of the petitioner. But, the Respondent has stated that date of death is not registered in the office and expressed **her** helpless for issuing the death certificate. In this regard, the Respondent has issued Non-availability Certificate. The Petitioner required Death Certificate of **mother** 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 herself 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 herself as PW.1 by reiterating the contents of the petition and in proof of the same, she 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 **mother** of the petitioner died on 21.07.1970 and the death of the **mother** of the petitioner was not registered in the Death Register maintained by the Respondent. Further, the Petitioner has produced '**Masthammavani**' and '**Arambha**' Daily Newspapers dated:02.11.2022 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:

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 **mother** by name **Smt.Boramma W/o Late Javaraiah died on 21.07.1970, at Chakkere Village, Malur 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 **19th day of January -2023**)

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

ANNEXURES

List of the Witnesses examined on behalf of Petitioner:

P.W.1 : Smt.Puttankamma

List of the Documents marked on behalf of Petitioner:

Ex.P1 : Non-Availability Certificate

Ex.P2 : Notarized Genealogical Tree affidavit

Ex.P3 : Notarized Aadhar Card

Ex.P4 : Masthammavani daily newspaper

Ex.P5 : Arambha daily newspaper

Ex.P4(a) to 5 (a) : Publication parts

List of the Witnesses examined on behalf of Respondents:

--Nil--

List of the Documents marked on behalf of Respondents:

--Nil--

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 **mother** by name **Smt.Boramma W/o Late Javaraiah died on 21.07.1970, at Chakkere Village, Malur 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.

Addl. Civil Judge & JMFC.,
Channapatna.

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