

KARN220052622022



Presented on : 07-10-2022
Registered on : 15-10-2022
Decided on : 06-01-2023
Duration : 0 years, 2 months, 30 days

IN THE COURT OF THE PRL JUDGE & J.M.F.C.,
AT CHANNAPATNA.

Present: Sri. MAHENDRA. M., B.A, LL.B.,
Prl. Civil Judge & JMFC.,
Channapatna.

Dated: This 06th day of January -2023

CRL. MISC. No.1063/2022

- Petitioners :**
1. Sri. Krishnaiah
S/o Late Huli Elagaiah,
Aged about 66 years,
 2. Sri. Elemoga
S/o Late Huli Elagaiah,
Aged about 64 years,
 3. Sri. Shivaiah
S/o Late Huli Elagaiah,
Aged about 60 years,

All are R/at
Mallumgere Village,
Kasaba Hobli,
Channaptna Taluk,
Ramanagara District.

(By Smt. Devambha Advocate)

//Versus//

Respondent : The Tahasildar,
Channapatna Town.

(Exparte)

ORDER

The Petitioners have 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 petitioner No.1 to 3 by name **Sri. Huli Elagaiah S/o Chikkaiah died on 19.04.1980** at Mallumgere Village, Kasaba Hobli, Channaptna Taluk, Ramanagara District.

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

That the **Father** of the Petitioner No.1 to 3 died on **19.04.1980** at Mallumgere Village, Kasaba Hobli, Channaptna Taluk, Ramanagara District. Respondent is the Registrar of Births and Deaths. The Petitioners could not inform the date of death of **Father** of the petitioner No.1 to 3 the concerned Authority. The Petitioners have approached

the Respondent for death certificate of **Father** of the petitioner No.1 to 3. But, the Respondent has stated that date of death is not registered in the office and expressed **his** helplessness for issuing the death certificate. In this regard, the Respondent has issued Non-availability Certificate. The Petitioners required Death Certificate of **Father** of the petitioner No.1 to 3 to getting change of khatha and other transaction. Hence, the Petitioners 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 petitioners in order to establish their claim the petitioner 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 Petitioners have 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 No.1 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 Exs.P1 to P5.

8. Ex.P1 is the Non-Availability Certificate, Ex.P2 is the genealogical Tree affidavit, Ex.P3 is the Notarized Copy of Adhar Card , Ex.P4 and 5 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 No.1 to 3 died on **19.04.1980** and the death of the **Father** of the Petitioner No.1 to 3 was not registered in the Death Register maintained by the Respondent. Further, the Petitioner have produced '**Masthammavani**' and '**Arambha**' Daily Newspapers dated:23.12.2022 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 Petitioners 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 No.1 to 3 Father by name **Sri. Huli Elagaiah S/o Chikkaiah died on 19.04.1980 at Mallumgere Village, Kasaba Hobli, Channaptna 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 petitioners after producing the certified copies of the same.

(Dictated to the Stenographer and transcribed by his, Order corrected and signed by me, then pronounced by me in the Open Court on this the 06th day of January 2023).

Prl. Civil Judge & JMFC,
Channapatna.

ANNEXURES

List of the Witnesses examined on behalf of Petitioner:

P.W.1 : Sri. Krishnaiah

List of the Documents marked on behalf of Petitioner:

Ex.P-1 : Non-Availability Certificate

Ex.P2 : Genealogical tree affidavit

Ex.P3 : Notarized Copy of Adhar Card
Ex.P4 : Masthammavani Daily news paper
Ex.P5 : Arambha Daily news paper
Exs.P4(a)& 5(a) : Publication parts

List of the Witnesses examined on behalf of Respondent:

--Nil--

List of the Documents marked on behalf of Respondent:

--Nil--

Prl. Civil Judge & JMFC.,
Channapatna.

Order pronounced in open court

Vide separate order sheet

O R D E R

The Petition filed by the Petitioners
**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 No.1 to 3 Father by name **Sri. Huli Elagaiah S/o Chikkaiah died on 19.04.1980 at Mallumgere Village, Kasaba Hobli, Channaptna 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.

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Prl. Civil Judge & JMFC.,
Channapatna.