

ORDER

The petitioner has filed the present petition U/Sec.13 (3) of the Registration of Births and Deaths Act seeking a direction to the respondent No.1 to enter the date of death of the petitioner's mother and for issuance of death certificate.

2. It is the case of the petitioner's that his mother by name 'Smt.Guthyamma w/o Bharmappa' died on 02.12.1988 at Ittighalli Village, Shivamogga Taluk. Due to some unavoidable circumstances, the petitioners could not intimate the fact of death of his mother to the respondent No.1 authority within the stipulated time. When he approached the respondent No.1 for issuance of death certificate of his mother, the respondent No.1 has issued an endorsement stating that, there is no entry regarding the death of his mother. Therefore, the petitioners has approached this Court with the present petition.

3. The L.R.s of deceased are also made as party. They have not contested the case. The notice is also issued through the General Public by way of paper publication. None of the parties appeared.

4. The petitioner's has filed his evidence by way of affidavit.

5. Perused the records.

6. The petitioner, in support of her petition averments has filed his evidence by way of affidavit reiterating the petition averments. The non-availability certificate issued by the respondent No.1 has been produced before the Court, which discloses that, the date of death of one 'Smt.Guthyamma' W/o 'Bharmappa' died on 02.12.1988 at Ittigehalli village of Shivamogga Taluk, has not been registered in the respondent's office. The copy of Non-availability certificate, genealogical tree, Voters I.D., Hosadiganta Daily News Paper, Echharike daily News paper are also produced along with the affidavit which also shows the relationship of the deceased and the petitioner and the date of death as 02.12.1988.

7. Moreover, the respondent did not appear before the Court and contest the matter. therefore the version of PW-1 remains intact and stands un-controverted. That apart, on perusal of the documents produced by the petitioners, I do not find anything which will render the evidence

unacceptable.

8. In a proceeding U/s 13(1)(3) of Registration of Births and Deaths Act, the factum of birth and death is relevant and date of birth or death is not relevant.

2000(4) KCCR 2674, State of Karnataka V/s Smt. Annakka;

"Registration of Births and Deaths Act, 1969-Sec.13(3)-Direction to make an entry in the Birth registration by the Magistrate- challenged on the ground, that except the statement of applicant on oath there was no other materials".

Held: "Magistrate in a proceeding U/s 13(3) only ascertains the birth of the child and date is not the material , consideration, as such directions bind only the registration office under the Act to make make an entry and does not carry tangle probable "

9. There is absolutely no ground to believe the unchallenged evidence of the petitioners. Hence, the petitioners are entitled for the relief sought for and accordingly, I pass the following;

ORDER

The petition filed by the petitioner
U/Sec.13 (3) of the Registration of Births

and Deaths Act is allowed.

The respondent No.1 is directed to register the date of death of the petitioner's mother by name 'Smt.Guthyamma' W/o 'Bharmappa' died on 02.12.1988 at Ittigehalli village of Shivamogga Taluk.. in the concerned register and to issue death certificate after collecting the necessary fees.

II Addl. Civil Judge and JMFC,
Shivamogga.

