

IN THE COURT OF SENIOR CIVIL JUDGE AND
J.M.F.C. RON.

Dated this the 23rd day of February- 2018

P R E S E N T
SMT.NAGAMANI.V., B.A.L., LL.B.,
SENIOR CIVIL JUDGE AND J.M.F.C RON

CRL.MISC.1/2018

Petitioner : Hanamappa S/o Gadigeppa Bhajantri,
Age:60 years, Occ: Agriculturist,
R/o. Kodaganur, Tq: Ron, Dist:Gadag.

(Advocate by Sri.R.S.M)
-VS-

Respondent: Registrar of Birth And Death
Represented by Tahasildar, Ron,
Tq: Ron.

(exparte)

ORDERS

The petitioner has filed this petition U/Sec.13(3) of Karnataka Registration of Births and Deaths Act, 1969 for a direction to the respondent/Registrar of Births & Deaths to record the date of death of Father of petitioner by name **Late Gadigeppa S/o Ramappa Bhajantri** on **02.10.1985** at **Kodaganur of Ron Taluk**.

BRIEF FACTS OF THE CASE

2. It is forthcoming in the petition that, the Father of the petitioner by name **Late Gadigeppa S/o Ramappa Bhajantri** was died on **02.10.1985**, at Kodaganur, Ron Taluk and the fact of death of the Father of the petitioner was not

intimated to the respondent by mistake and ignorance of the procedural aspects. When the petitioner submitted an application to the respondent for issuance of death certificate of the deceased, respondent has issued Non Availability Certificate dated 28/12/2017 stating that, there is no entry about the date of death of **Gadigeppa S/o Ramappa Bhajantri**, pertaining to the year **1985** in the register maintained by him.

3. The petitioner has contended that, the death certificate of his Father is required for the purpose of producing the same before the concerned authorities in order to get 'varasa' certificate and for such other legal purposes. Hence, the petitioner has filed a petition for a direction to the respondent to cause an entry of the date of death of the deceased **Gadigeppa S/o Ramappa Bhajantri on 02.10.1985** in their registers and to issue death certificate in the interest of justice.

4. After registration of the case, notice has been issued to the respondent, which was duly served. In spite of due service of notice, respondent remained absent. Hence, respondent was placed *exparte* and proceeded with the case and simultaneously, as per law notice of the institution of the case, taken thorough paper publication in the newspapers of

Kittur Karnataka and Nagarika. After due service no rival claimants appeared so as to contest the case of the petitioner. Hence the matter has been set down for enquiry.

5. Petitioner, to prove his case has examined himself as P.W.1 and the documents Non Availability Certificate, Property Assessment Registers, RTC Extract, School Certificate, Death Certificate of Hanumavva (Mother of the petitioner) Genealogical Tree, Notarised copy of the Aadhar Card, Notarised copy of the Election I.D. Card, got marked as Ex.P.1 to Ex.P.9. Thereafter, the petitioner closed his side evidence.

6. On the other hand, since the respondent placed exparte and no rival claimants appeared to impeach the case of the petitioner, matter has been posted for arguments.

7. Heard the learned counsel for the petitioner. The points that arise for my consideration are:-

- 1) Whether the petitioner has placed sufficient materials on record as to verify the correctness of date of death of **Gadigeppa S/o Ramappa Bhajantri** is as **02.10.1985**?
- 2) Whether directions are necessary from this court to respondent for recordings the date of death of **Gadigeppa S/o Ramappa Bhajantri**?
- 3) What Order?

8. My answer to the above points are as follows: -

Point No. 1 : In the Affirmative.

Point No. 2 : In the Affirmative.

Point No. 3 : As per final order for the following:

::REASONS::

9. **Point No.1** :- The Petitioner has filed petition U/Sec.13(3) of Registration of Births and Deaths Act, for a direction to the respondent Registrar of Births and Deaths to record date of death of **Gadigeppa S/o Ramappa Bhajantrias 02.10.1985.**

10. In order to establish the said fact, petitioner-Hanamappa S/o Gadigeppa Banjantri, as examined himself as P.W.1 and documents got marked as Ex.P.1 to 9. The said documents clearly disclose about the relationship between the petitioner and the deceased. The contention of the petitioner and the evidence before the Court that his Father **Gadigeppa S/o Ramappa Bhajantri had died on 02.10.1985** has remained unchallenged and unimpeached. Hence, from the materials placed on record, establishes the genuineness of the case of the petitioner. As the petitioner contention and the evidence let in remained unchallenged, I have no option but to believe that **Gadigeppa S/o Ramappa Bhajantri** was expired on 02.10.1985. Hence, I answer Point No. 1 formulated

by me in the **Affirmative**.

11. **Point No.2** :- Petitioner case is that, Father of the petitioner **Gadigeppa S/o Ramappa Bhajantri** had died on 02.10.1985. Due to ignorance of the procedural aspects regarding death of the deceased was not given to the respondent. On submitting an application to the Registrar of Births and Deaths, Gajendragad has issued Non-availability Certificate stating date of death of **Late.Gadigeppa S/o Ramappa Bhajantri on 02.10.1985** is not recorded in their registers of Births and Deaths.

12. As per 13(3) of Registration of Births and Deaths Act 1969,

“Any birth or death which has not been registered within one year of its occurrence, shall be register only on an order made by a Magistrate of the First Class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.”

13. In view of the above provision, petitioner has produced Ex.P.1-Non-availability Certificate issued by the respondent that date of death of the deceased not been recorded in the Registers of Birth and Death. Apart from this, he produced affidavit of PW. 1 and the document Property

Assessment Registers, RTC Extract, School Certificate, Death Certificate of Hanumavva (Mother of the petitioner) Genealogical Tree, Notarised copy of the Aadhar Card, Notarised copy of the Election I.D. Card, as per Ex.P.2 to Ex.P.9. As the petitioner has established that the death certificate is required to produce the same before the concerned authorities for obtaining 'Varasa' certificate and for other legal purposes. Hence, I am of the view that, the petitioner cannot be made to suffer for fault for not reporting the date of death in time to the respondent. Hence, it is proper to issue death certificate of the Father of the petitioner **Gadigeppa S/o Ramappa Bhajantri on 02.10.1985**. In this regard necessary direction is required to the respondent to enter the date of death in their register of Births and Deaths as **02.10.1985**. Accordingly, I answer Point No. 2 formulated by me in the **Affirmative**.

14. **Point No.3** :- In view of discussion on Point No.1 and 2, I proceed to pass the following :-

::O R D E R::

Petition filed by the petitioner
U/Sec.13(3) of Registration of Births and
Deaths Act, 1969 is allowed.

The respondent is directed to cause
an entry of the date of death of

Gadigeppa S/o Ramappa Bhajantri as on 02.10.1985 at Kodaganur, Ron Taluk, in the registers of Births and Deaths on payment of prescribed fee, and issue Death Certificate to the petitioner.

(Dictated to the Court Typist, directly on computer, revised and then pronounced in the open Court on this the 23rd day of February, 2018)

(Smt.Nagamani.V)
Senior Civil Judge and JMFC., Ron

::A N N E X U R E::

List of witness examined for petitioners: -

P.W.1: Hanamappa S/o Gadigeppa Kalalbandi

List of witness examined for respondent: -

-Nil-

List of documents marked for petitioners: -

Ex.P.1	:	Non-availability Certificate.
Ex.P.2 & 3	:	Property Assessment Registers,
Ex.P.4	:	RTC Extract,
Ex.P.5	:	School Certificate
Ex.P.6	:	Death Certificate of Hanumavva
Ex.P.7	:	Notarised copy of the Aadhar Card
Ex.P.8	:	Notarised copy of the Election I.D. Card,

List of documents marked for respondent: -

-Nil-

(Smt.Nagamani.V)
Senior Civil Judge and
JMFC.,Ron.