

**IN THE COURT OF THE ADDL CIVIL JUDGE AND JMFC, AT UDUPI.**

–:Present:–

**Sri. Ashoka T.,** B.A., LL.B.  
Addl. Civil Judge & JMFC,  
Udupi. (C/C)

**Criminal Misc. No. 1/2018**

Dated this the 2<sup>nd</sup> day of April 2018

**Petitioner :** Vasu Poojary, 64 years,  
S/o. Late Achu Poojary & Kitti Poojarthi,  
R/at Thotamane, Nittur Post,  
Puttur Village, Udupi Taluk.

Presently working and residing at  
504/2, Old Bazar, Near Ram  
Temple, Khadki, Pune City,  
Maharashtra.

(Reptd. by Smt.Hemalatha Prasad M., Advocate)

**// Versus //**

**Respondent :**

The Registrar of Birth and Death, Udupi.

(Placed exparte)

**ORDERS ON PETITION FILED U/S 13 (3) OF REGISTRATION OF BIRTHS AND  
DEATHS ACT**

Present petition is filed under Section 13(3) of Registration of Births and Deaths Act 1969, with a prayer to direct the respondent to issue necessary directions to register the factum of death of petitioner's father

namely, **Achu Poojary, S/o. Pukka Poojary** as date of death is **09.02.1990**.

2. **Facts in brief:** The petitioner's father namely, **Achu Poojary, S/o. Pukka Poojary**, died on **09.02.1990** at **Puttur Village**. The death of said late **Achu Poojary, S/o. Pukka Poojary** was not informed to the respondent by the petitioner and his family members to make necessary entries in the concerned register. However, when the petitioner approached the respondent for death certificate of his father, the respondent herein issued Non-availability Certificate, stating that, date of death of petitioner's father is not registered. Hence, the petitioner has filed the petition for orders.

3. Notice of the petition is ordered to the respondent. Despite due service, the respondent remained absent. Consequently, the respondent has been placed exparte.

4. As per order dated 09.01.2018, petitioner take out paper publication in Samyuktha Karnataka and the New Indian Express daily News Paper dated 13.01.2018, inspite of the paper publication none appeared to contest or support the petition. The petitioner has furnished news paper publication along with memo on 24.01.2018.

5. The petitioner examined himself as PW.1 and produced 7 documents at Ex.P.1 to Ex.P.7.

6. Heard arguments.

7. The points that arise for my consideration:

1. "Whether the prayer made in the petition can be granted?
2. What order?

8. My finding to the above points are as under:

Point No.1: In the affirmative.

Point No.2: As per final order, for the following:

### REASONS

9. Point No.1: The petitioner is examined himself as PW.1 and deposed to the alleged fact pleaded in the petition. He has deposed that, his father died on **09.02.1990** at **Puttur Village**. Due to unawareness, PW.1 could not enter the date of death of his father at the office of the respondent. The death certificate of father of petitioner need for the purpose of change of revenue records. When the petitioner approached the respondent for death certificate, the respondent gave non-availability certificate as per Ex.P1. On perusal of Ex.P1 it is apparent that, the death of **Achu Poojary, S/o. Pukka Poojary** is not registered in the concerned records of the respondent's office. The evidence of PW.1 remained unchallenged. Ex.P1 appears to be issued by the respondent.

10. In the instant case the petitioner's father **Achu Poojary, S/o. Pukka Poojary** died on **09.02.1990**. On perusal of the Non-availability certificate, Ex.P1, reveals that death of one **Achu Poojary, S/o. Pukka Poojary** is not entered in the register of respondent's office. The

petitioner in order to substantiate her father's date of death has produced invitation card of vaikunta samaradhane, RTC bearing Sy.No.85/1D, situated at Puttur Village, one photo, original adhar card of petitioner, Samyuktha Karnataka and the New Indian Express daily news paper which are marked as Ex.P2 to P7 respectively. Testimony of P.W.1 and documents produced by him gone unchallenged. Therefore, I must believe the case of the petitioner. Under the circumstance, I do not find any grounds to discard the evidence of the PW.1. Therefore, by issuing necessary directions to the respondent, petition has to be allowed. Accordingly, I answer point No.1 in the Affirmative.

11. **Point No.2:-** In view of my answer to points No.1, I proceed to pass following:

### **ORDER**

The petition filed by the petitioner under Section 13(3) of Registration of Births and Deaths Act is hereby allowed with no order as to cost.

The respondent is directed to register the factum of date of death of petitioner's father namely **Achu Poojary, S/o. Pukka Poojary** as **09.02.1990** at **Puttur Village, Udupi Taluk**, on payment of requisite penalty.

(Dictated to the Typist Copyist, directly on the computer, typed by her, correct by me and then pronounced in open court on this the 2<sup>nd</sup> day of April, 2018)

(Ashoka T.)  
Addl. Civil Judge and J.M.F.C.,  
Udupi. (C/C)

**ANNEXURE****List of witnesses examined for Petitioner:-**

PW.1 : Vasu Poojary

**List of Exhibits marked for Petitioner:-**

Ex.P.1 : Non-availability certificate.

Ex.P.2 : Invitation card of Vaikunta Samaradhane

Ex.P.3 : RTC bearing Sy.No.85/1D, situated at Puttur  
Village, Udupi Taluk

Ex.P.4 : One photo

Ex.P.5 : Original adhar card of petitioner

Ex.P.6 : Samyuktha Karnataka daily news paper dt: 13.01.2018

Ex.P.7 : The New Indian Express daily news paper dt:13.01.2018

**List of witnesses & documents marked for Respondent:-**

--- NIL ---

(Ashoka T.)  
Addl. Civil Judge and J.M.F.C.,  
Udupi. (C/C)