

KABG420008222023



**IN THE COURT OF VII ADDL. DISTRICT AND SESSIONS
JUDGE, BELAGAVI SITTING AT CHIKODI.**

:: PRESENT ::

SRI. VIJAY KUMAR, B.Sc., L.L.B,
VII Addl. District & Sessions Judge,
Belagavi sitting at Chikodi.

DATED THIS THE 12th DAY OF JUNE, 2026

:: P & SC. No.5017/2023::

PETITIONERS:-

**1. Smt. Mahadevi W/o. Purandar
Rente @ Renti,**

Aged about: 43 years.

Occ: Housewife,

R/o: Chinchali,

Tq: Raibag, Dist : Belagavi-591217.

**2. Shri. Lagamanna S/o. Purandar
Rente @ Renti,**

Aged about: 26 years.

Occ: Agriculture,

R/o: Chinchali,

Tq: Raibag, Dist : Belagavi-591217.

[By: Sri. S. T. Kuchanure, Advocate]

-V/s-

RESPONDENT:

- NIL -

**ORDERS ON PETITION FILED U/Sec.276 OF INDIAN
SUCCESSION ACT -1925**

The petitioners have filed this petition U/Sec 276 of Indian Succession Act, 1925 by requesting this court to grant probate by virtue of the Will dated 04.07.2022 registered on 06.07.2022 in respect of petition schedule properties.

2. The petition in brief:-

The testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti is the father in-law of petitioner no.1 and grandfather of the petitioner no.2. The petitioner No.2 is the son of petitioner no.1. The testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti is the owner of the schedule properties, which were acquired through a sale deed dated 18.04.1973. Testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti during his old age nourish by the petitioners, as such with love and affection he has executed registered last will dated 04.07.2022 with his free will in sound disposing state of mind, bequeathing the

schedule properties in favour of the petitioners. Subsequently, he died on 09.08.2022. Consequent to his death, the petitioners have succeeded to his estate, i.e., schedule properties, by virtue of the said will. The said Will was in the custody of petitioners. Based on the said Will, the petitioners have filed an application before the Revenue authority for a change of revenue records in their name in respect of the schedule properties. However, the Revenue authority had instructed in the last week of May 2023 to obtain the probate in respect of the above-said will. Hence, they filed this petition for the relief as prayed for.

3. The petitioners by filing I.A.No.1 have obtained permission of this court to publish the notice about the institution of the petition in a daily news paper. The petitioners published the same in the Kannada Prabha daily News paper dated 17.07.2023. Despite of making paper publication, no other rival claimants have appeared before the court to challenge the petitioners claim.

4. On the basis of the above contentions the following points arise for my consideration;

1. Whether the petitioners prove that late Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti, being the absolute owner of schedule properties, bequeathed the same in their favour by executing a Will dated 04.07.2022?
2. Whether the petitioners are entitled for the probate as prayed for?
3. What Order?

5. In support of their case, petitioners themselves examined as PW.1 and 2 and two attesting witnesses examined as PW.3 and 4. Ex.P1 to Ex.P10 got marked through them.

6. Heard arguments of the learned counsel for petitioners. My findings on 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,

:: R E A S O N S ::

7. **POINTS No.1 & 2:-** These two points are interrelated and necessary for common discussion. The findings of one point will have a great bearing on another issue. Hence, they are taken together for a common discussion.

8. In support of their case, the petitioners themselves examined as PW.1 and 2 and marked Ex.P1 to Ex.P10. The PW.1 and 2 in their chief-examination affidavit reiterated the petition averments. The petitioners also examined two attesting witnesses to the Will and it was marked as Ex.P9 and testator put his signature on it in all pages. Attesting Witnesses signatures marked at Ex.P9 (b) and (c). PW.3 and 4 in their Chief-examination affidavit deposed that, testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti was executed the Will dated 04.07.2022 in their presence and bequeathed the schedule properties in favour of the petitioners. It is further stated that, in their presence testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @

Renti put his signature on the said Will and thereafter they put their signatures on the said Will. The testator had request to them to sign as attestor to the said will. The evidence of PW.1 to PW.4 remains unchallenged since no rival claimants have appeared before the court.

9. The petitioners by examining PW.3 Sidram Burji and PW.4 Adivappa Doddamani, who are the attesting witnesses to the Ex.P-9 registered Will, have complied the mandatory requirements of Section 68 of Indian Evidence Act. The oral testimony of PW.1 to PW.4 remains unchallenged and therefore no grounds made out to disbelieve their evidence regarding execution of Will by Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti in his testamentary capacity, sound state of mind and voluntarily bequeath the schedule properties to the petitioners.

10. Ex.P-1 is the death certificate of the testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti, who died on 09.08.2022. The Hon'ble High court of

Karnataka in the case of B.Manjunatha Prabhu Vs.- C.G.Srinivasa (ILR 2005 Kar 467) held that:- Article 137 of Limitation Act would not apply to the proceedings filed for grant of probate or Letter of administration with or without the Will annexed. However this petition is filed within one year from the date of death of Testator, the petition would not be barred by law of limitation.

11. The Hon'ble High Court of Karnataka in ILR 2018 Kar 1, in the case of V.Govinda Raju another Vs- Nil, held that:- If a Will executed by a Hindu is not covered by Clause (a) & (b) of section 57 of the Act, question of application of section 213 of the Act to such a Will does not arise. However in such a case, there is no prohibition to apply for grant of probate and section 213 of the Act does not bar to get a Will probate. Another judgment in MFA No.4477/2023 in the case of Smt. Renuka Vs- Nil, wherein the Division Bench of Hon'ble High Court of Karnataka held that:-language of Section 281 of Indian succession Act would make it clear that the requirement of verification is

only directory and its absence will not lead to dismissal of the petition.

12. Third judgment in MFA No.6177/2024 of Hon'ble High Court of Karnataka, wherein held that:- even in the absence of executor, probate can be granted in view of the order passed by the Division bench reported in 2019 SCC Online Kar. 3175 in the case of Rihana Parveen Vs.- Nil. In view of the above judgments only point is required to consider in this case is whether the execution of the Will by the testator is established by the petitioner as per section 63 of Indian Succession Act and 68 of Indian Evidence Act could be looked into.

13. The Ex.P10 is the registered sale deed dated 18.04.1973 wherein the testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti purchased item no.1 and 2 schedule properties. Ex.P2 to 7 are the RTC extracts for the year 2025-26 and mutation registered stood in the name of testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti. Ex.P2 to 7 and P.10 supported the case of the

petitioners that Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti was the absolute owner of the schedule properties executed the will in his testamentary capacity.

14. Ex.P9 is the Will executed by testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti in favour of the petitioners on 04.07.2022. Testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti died on 09.08.2022 and only after his death, the petitioners can claim the schedule properties on the basis of Ex.P9 Will. The petitioners by examining two attesting witnesses as PW.3 and 4 proved the due execution of Ex.P9 Will as required Under section 63 of Indian Succession Act and section 68 of Indian Evidence Act. The oral testimony of PW.1 to PW.4 remains unchallenged since no rival claimants have appeared before the court even after making paper publication. On the basis of materials placed before the court, I am of the opinion that the testator Balappa @ Balu @ Balesh S/o. Muttappa Rente @ Renti had valid title to the schedule properties and in his testamentary capacity

bequeathed the same in favour of petitioners through Ex.P-9 Will. Accordingly, the petitioners are entitled for the relief as prayed for. Hence, I answered Point No.1 and 2 in the **‘Affirmative’**.

15. **Point No.3:** Foregoing reasons and answering point No.1 & 2 as above, I proceed to pass the following;

:: O R D E R ::

The petition filed by the petitioners U/sec. 276 of Indian Succession Act is allowed.

The petitioners are directed to file valuation of the petition schedule properties in the prescribed form, as per Section 52 of the Karnataka Court Fees and Suits Valuation Act, and thereafter the Office shall collect the requisite Court fee at the rate specified in Article 6 of Schedule I of the Karnataka Court Fees and Suits Valuation Act on the basis of the said valuation.

Office issue Probate Certificate in favour of petitioners in respect of schedule

properties as shown in Ex.P-9 Will dated 04.07.2022, after collecting requisite fee.

The original Will (Ex.P-9) shall remain part of judicial records as provided under section 294 of Indian Succession Act-1925.

This order applies only for issuance of probate which is not a title deed to the petitioners.

(Dictated to the Stenographer Grade-III directly on computer, typed by her, corrected by me, pronounced in the open court on this the 12th day of June, 2026)

(VIJAY KUMAR)

VII Addl. District and Sessions
Judge, Belagavi sitting at Chikodi.

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

WITNESSES EXAMINED ON BEHALF OF PETITIONERS:

PW.1 :- Shri. Avinash S/o. Bapu Powar
PW.2 :- Shri. Jitiram Janu Padawale
PW.3 :- Shri. Babasab Prabhu Kapase

DOCUMENTS MARKED FOR THE PETITIONERS:

Ex.P.1 :- RTC extract.
Ex.P.2 to 4 :- Notarized Aadhar Cards.
Ex.P.5 :- Paper publication.

Ex.P.6 :- Original will dated 22.08.2013.
Ex.P.7 :- Death certificate.
Ex.P.8 and 9 :- Aadhar Cards.
Ex.P.10 :- Original sale deed dated:19.08.1992.

WITNESSES EXAMINED ON BEHALF OF RESPONDENT:

- Nil -

DOCUMENTS MARKED FOR THE RESPONDENT:

- Nil -

(VIJAY KUMAR)

VII Addl. District and Sessions Judge,
Belagavi sitting at Chikodi.