

KABG420008872025



**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 16th DAY OF JUNE, 2026

P & SC No.5018/2025

PETITIONERS:

1. Shri. Vinod Chandrakant Golabhavi,
Age: 37 years, Occ: Agriculture,
R/o: Raibag, Taluk: Rabiag, Dist:
Belagavi.
2. Shri. Vishal Chandrakant Golabhavi,
Age: 35 years, Occ: Agriculture,
R/o: Raibag, Taluk: Rabiag, Dist:
Belagavi.
3. Shri. Kalmesh Parashuram Golabhavi,
Age: 31 years, Occ: Agriculture,
R/o: Raibag, Taluk: Rabiag, Dist:
Belagavi.
4. Shri. Mahantesh Parashuram
Golabhavi,
Age: 29 years, Occ: Agriculture,
R/o: Raibag, Taluk: Rabiag, Dist:
Belagavi.

(By Sri.D.M.Naik, Advocate)
V/s.

RESPONDENTS:

1. Shri. Chandrakant Bharama Golabhavi,
Age: 60 years, Occ: Agriculture,
R/o: Raibag, Taluk: Rabiag, Dist:
Belagavi.

2. Shri. Parashuram Bharama Golabhavi,
Age: 55 years, Occ: Agriculture,
R/o: Raibag, Taluk: Rabiag, Dist:
Belagavi.
3. Smt. Bharati W/o. Prakash Todkar,
Age: 50 years, Occ: Household work,
R/o: Kupawad, Tq: & Dist: Sangli.

(By Sri.V.P.Ugar, Advocate)

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**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 the court to grant probate by virtue of the Will dated 02.04.2008 in respect of petition schedule properties.

2. The petition in brief:-

The Petitioners are the brothers. Respondent No.1 is the father of petitioners No.1 and 2 and respondent No.2 is the father of petitioners No.3 and 4. Respondent No.3 is the daughter of deceased Shri. Bharama Satyappa Golabhavi. The deceased is the paternal grand father of petitioners and respondents are the legal heirs of deceased Bharama. The

said paternal grand father was the owner in possession of petition schedule properties. The said Bharna Satyappa Golabhavi was died on 23.11.2017 at Raibag, when he was residing with the petitioners. The deceased wife Krishnabai Bharama Golabhavi who also died on 20.04.2025 at Raibag and he has got two sons and one daughter i.e., respondents.

3. It is further stated that during the life time, the testator Bharama has executed registered Will dated 02.04.2008 in favour of the petitioners in respect of petition schedule properties. The said Will was attested by Nagappa Satteppa Goddale and Maruti Satteppa Metri of Raibag. Further it is stated that during life time of deceased, he was looked after and taken care by the petitioners and also provided medical assistance by spending huge amount. Therefore the deceased out of love and affection towards the petitioners executed the said Will, when he was physically and mentally fit and in a sound disposing state of mind. Based on the said Will, the petitioners have filed an application before the Tahasildar, Raibag for a change of

revenue records in their name in respect of the schedule properties. However, the said authority had instructed in the month of May first week to obtain the probate in respect of the said will. Hence, they filed this petition for the relief as prayed for.

4. 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 petitioner published the same in the Kannada Prabha daily Kannada News paper dated 16.10.2025. Despite of making paper publication, no other rival claimants have appeared before the court to challenge the petitioners claim.

5. The respondent No.1 to 3 appeared through their counsel and filed objections to main petition, by admitting the claim of the petitioners and also execution of registered Will by testator Bharama. Further respondent no. 1 to 3 stated that, they have no objection for issuing probate.

6. In support of their case, the petitioner No.1 himself examined as PW.1, and one attesting witness to the Will

examined as PW.2. Ex.P.1 to Ex.P7 got marked through them.

7. Heard arguments. The following points arise for my consideration;

1. Whether the petitioners prove that Bharama Satyappa Golabhavi being the absolute owner of schedule properties, was bequeathed the same in their favour by executing a Will dated 02.04.2008?
2. Whether the petitioners are entitled for the probate as prayed for?
3. What Order?

8. 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, for the following:

:: R E A S O N S ::

9. **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.

10. In support of their case, the petitioner No.1 himself examined as PW.1 and marked Ex.P1 to Ex.P7. The PW.1 in his chief-examination affidavit reiterated the petition averments. The petitioners also examined one attesting witness to the Will as PW-2 and said Will was marked as Ex.P7 and testator put his Left Thumb impression (LTM) on it in all pages. Attesting Witness signature marked at Ex.P7(a), another witness signature marked at Ex.P7(b) and signature of Deed writer is marked at Ex.P7(c). PW.2 in his Chief-examination affidavit deposed that, testator Bharama Satyappa Golabhavi has executed the Will dated 02.04.2008 in his presence and bequeathed the schedule properties in favour of the petitioners with the knowledge of his family members who are respondents No.1 to 3. The evidence of PW.1 and PW-2 remains unchallenged since no rival claimants have appeared before the court.

11. The petitioners by examining PW.2 Sri. Maruti Satteppa Metri, who is the attesting witness to the Ex.P.7 Will, has complied the mandatory requirements of Section 68 of Indian Evidence Act. The oral testimony of PW.1 and PW.2 remains unchallenged and therefore no grounds made out to disbelieve their evidence regarding execution of Will by Bharama Satyappa Golabhavi in his testamentary capacity, sound state of mind and voluntarily bequeath the schedule properties to the petitioners.

12. Ex.P-1 is the death certificate of testator Bharama Satyappa Golabhavi, who died on 23.11.2017. 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. Therefore even this petition filed after 2 months from the date of death of Testator, the petition would not be barred by law of limitation.

13. 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.

14. 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.

15. Further Ex.P2 is the death certificate of wife of testator Bharmha by name Krishnabai Bharama Golabhavi who died on 20.04.2025. Ex.P3 is the surviving family members certificate, in discloses that deceased Bharama died living behind respondent no. 1 to 3 as his LR's. Ex.P4 is the record of rights. On perusal of Ex.P4 clearly establishes that Bharmha Satteppa Gholabhavi, being the absolute owner of the schedule properties bequeathed the same in favour of the petitioners in testamentary capacity.

16. Ex.P7 is the Registered Will executed by testator Bharmha Satteppa Gholabhavi in favour of the petitioners on 02.04.2008 and he died on 23.11.2017 and only after his death, the petitioners can claim the schedule properties on the basis of Ex.P7 Will. The petitioners by examining one attesting witnesses as PW.2 proved the due execution of

Ex.P7 Will as required Under section 63 of Indian Succession Act and section 68 of Indian Evidence Act. The oral testimony of PW.1 & PW.2 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 Bharmasatteppa Gholabhavi had valid title to the schedule properties and in his testamentary capacity bequeathed the same in favour of petitioners through Ex.P-7 Will. Accordingly, the petitioners are entitled for the relief as prayed for. Hence, I answered Point No.1 and 2 in the 'Affirmative'.

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

:: ORDER ::

The petition filed by the petitioners U/s 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-7 Will dated 02.04.2008, after collecting requisite fee.

The original Will (Ex.P-7) 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 directly on computer, typed by her, corrected by me and then pronounced in the open court on this the 16th 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 : Vinod Chandrakant Golabhavi.

PW-2 : Maruti Satteppa Metri.

DOCUMENTS MARKED FOR THE PETITIONERS:

Ex.P.1 : Death certificate.
Ex.P-2 : Death certificate.
Ex.P-3 : Surviving family members certificate.
Ex.P-4 : Record of rights.
Ex.P-5 : Attested copy of Aadhar card.
Ex.P-6 : Paper publication.
Ex.P-7 : Will Deed Original.
Ex.P7(a) : Signature of PW-2.
Ex.P7(b) : Signature of another witness.
Ex.P7(c) : Signature of Deed writer.

WITNESSES EXAMINED ON BEHALF OF RESPONDENTS:

- Nil -

DOCUMENTS MARKED FOR THE RESPONDENTS:

- Nil -

(VIJAY KUMAR)

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