

KABR400000822025



IN THE COURT OF IV ADDITIONAL DISTRICT & SESSIONS JUDGE
SITTING AT DODDABALLAPURA, BENGALURU RURAL DISTRICT

Dated 23rd Day of March 2026

: PRESENT:

SMT. NIRMALA .K, B.A. M.L.,
IV Additional District and Sessions Judge,
Doddaballapura, Bengaluru Rural District.

P & S.C. No. 10009 / 2025

- PETITIONERS :**
- 1) Smt. Akkayamma**
W/o. Late Madduraiah
Aged about 53 years
R/at. Banddhalli Village
Nandi Hobli
Chikkaballapura Taluk
Chikkaballapura District
 - 2) Sri. Venkatesh T.N.**
S/o. Late Chikkanarasimahaiah
Aged about 51 years
R/at. Tapasihalli Village
Antharahalli Post
Tubugere Hobli
Doddaballapura Taluk
Bengaluru Rural District

(Reptd. by Sri. C.K.A.S., Advocate)

V/s

RESPONDENT : - Nil -

ORDERS

This is a petition filed by the petitioner under Section 276 of Indian Succession Act 1925 praying to issue probate in favour of petitioner in respect of Will dated 06-10-2006 executed by Late Thippaiah.

2. It is the case of petitioner that, one Thippaiah, S/o. Late Maddurappa is the father-in-law of 1st petitioner and grandfather of petitioner no.2. During his life time, he had acquired land bearing old Sy.No.53, new Sy.No.88, measuring 2 acre 4 guntas situated at Antharahalli Village, Tubugere Hobli, Doddaballapura Taluk. It is the self-acquired property of Thippaiah by way of grant. All the revenue records stood in his name vide R.R.No.542 and he was the absolute owner in peaceful possession and enjoyment of the petition schedule property. He had three children Maddurappa, Chinnamma and Nagappa, who are dead. Maddurappa was married to one Akkayamma / 1st petitioner and Chinnamma had one issue Venkatesh who is the second petitioner. Father-in-law of 1st petitioner and grandfather of 2nd petitioner looked after him during his last days and out of love and affection he had executed Will in favour of petitioners on 06.10.2016. He died on 24.02.2007. Will was found in the document maintained by deceased. By virtue of the said Will petitioners have become the absolute owners of the petition schedule properties. The petitioners have succeeded to the petition schedule properties and it is the only last Will. The petitioners approached the revenue

authorities to get their name entered, but they insisted for probate certificate. Hence, the petition.

3. On the other hand, in spite of issuance of paper publication, nobody came and contested the matter.

4. Petitioners in order to prove their case, petitioner no.2 got examined himself as P.W-1 and got examined other two witnesses as P.W-2 and P.W-3 and got marked documents as per Ex.P-1 to Ex.P-12.

5. I have heard the arguments and perused the records.

6. On hearing and on perusal of the materials on record, the following **points arise for my consideration are:**

1. Whether the petitioners have made out sufficient grounds for allowing the petition?

2. What order or decree?

7. My answers to the above points are as under:

Point No.1 : In the **Affirmative**,

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

REASONS

8. **Point No.1:-** According to petitioners, late Thippaiah had children i.e., Maddurappa, Chinnamma and Nagappa. Maddurappa was married to 1st petitioner Akkayamma and Chinnamma had a son by name Venkatesh. So, Thippaiah is the father-in-law of 1st petitioner and grandfather of 2nd petitioner. In

order to show the said aspect, petitioners have produced Ex.P-2 – Vamsha Vruksha, Ex.P-10 – Will, Ex.P-11 and Ex.P-12 Aadhaar card. These documents clearly indicate that about the relationship as stated by the petitioners. Further petitioners contended that the petition schedule properties belonged to Thippaiah. All the revenue records stood in his name.

9. According to petitioners, Thippaiah was the absolute owner of petition schedule property having acquired under grant. All the revenue records stood in in name vide R.R.542. In support of his contention, he has produced Ex.P-3 to Ex.P-9 R.T.C. extracts which indicate that petition schedule property was granted to Thippaiah under darkasth and he was the absolute owner. All the revenue records stood in his name.

10. Further petitioner contended that petition schedule properties are the self-acquired properties of his father. Regarding this , he has produced Ex.P-3 to Ex.P-9 – R.T.C. Extracts which clearly indicate that Thippaiah was the absolute owner in possession of petition schedule properties.

11. Petitioners submit that they have looking after late Thippaiah during his last days. So, out of love and affection he has executed the Will in favour of petitioners.

12. Petitioners in support of the above contention have produced Ex.P-1 – death certificate, Ex.P-10 Will. On perusal of these documents, discloses that the petitioner no.1 is the daughter in law of deceased Thippaiah and petitioner no.2 is the grandson of late Thippaiah. Out of love and affection, he executed Will in favour of petitioners as per Ex.P-10 and he died on 24-02-2007 as per

Ex.P-1. Therefore, the above documents clearly goes to substantiate the contention of petitioners.

13. Regarding the above aspects, PW-1 has clearly reiterated in his evidence. Further, he said that he was looking after deceased Thippaiah during his last days and out of his love and affection he has executed Will in favour of petitioners as per Ex.P-10. The said document is attested by witnesses Manjunath and Harish and the said document was prepared by Sri. G. Siddagangaiah. Both the attesting witnesses are examined as P.W-2 and P.W-3 respectively, who have identified their signature on the said Will at Ex.P-10(a) and 10(b). They also identified the signature of Scribe of said Will at Ex.P-10(c).

14. It is pertinent to note here that, in order to prove the execution of the Will as per Sec.68 of Evidence Act, examination of one of the attesting witness is a must. Regarding this, petitioner has examined both the attesting witnesses of the Will i.e., one Sri. Manjunatha S/o. Erappa as P.W-2 and another witness Sri. T.M. Harish S/o. Madduraiah as P.W-3. They have clearly deposed in their evidence about the execution of Will by late Thippaiah. After he has put his thumb impression on the document, the attesting witnesses and scribe have put signature to it. P.W-2 and P.W-3 have identified their signatures. So, by producing primary material document Ex.P-10 and by examining the attesting witnesses, the petitioner has clearly proved the due execution of the Will. More importantly, it is seen that, there are no contesting respondents. Though petitioners have taken paper publication, nobody have appeared and contested the case. This shows that, above oral evidence of P.W-1 to P.W-3 and Ex.P-10 the Will they

have been remained unchallenged. These materials clearly goes to substantiate the contention raised by the petitioners.

15. Thus from the above discussion, it is clear that petitioners have produced sufficient materials to show about the relationship between petitioners and deceased. The petition schedule property was bequeathed in favour of petitioners by its rightful owner. The due execution of Will is proved in accordance with law. As said earlier, the oral and documentary evidence produced by the petitioners has remained unchallenged. The learned counsel for petitioners submit that there are no other probate litigations in respect of the petition schedule property nor any other title documents other than the Will. Moreover as per petitioner, Ex.P-10 is the last Will of the testator. The petitioners are the only legal heirs. Till date, no other rival claimants to the petition. Therefore, there is no impediment to grant the probate in favour of petitioners. Moreover, they requires probate to effect change of khatha in the name of petitioners. Thus, considering the entire materials available on record, I am of the clear opinion that, petitioners are entitled for the relief claimed. **Accordingly, answered in the affirmative.**

16. **Point No.2:-** For the foregoing reasons, I proceed to pass the following :-

ORDER

**Petition filed by the petitioner under
Section 276 of Indian Succession Act 1925
is hereby allowed.**

No order as to costs.

Issue probate certificate on receipt of proper stamp duty in favour of the petitioner who is the legal representative of deceased Thippaiah.

(Dictated to the Stenographer, transcribed and computerized by her and transcript corrected by me and then pronounced in open Court on this the **23rd Day of March 2026**)

(NIRMALA. K.)

IV Addl. District & Sessions Judge,
Doddaballapura

ANNEXURE

1. List of witnesses examined on behalf of petitioner/s:

P.W-1 : Venkatesh T.N.
P.W-2 : Manjunath
P.W-3 : Harish

2. List of documents marked on behalf of petitioner/s:

Ex.P-1 : Death certificate
Ex.P-2 : G. Tree
Ex.P-3 -9 : R.T.C. Extracts
Ex.P-10 : Original Will
Ex.P-10(a) : Signature of witness
Ex.P-10(b) : Signature of witness
Ex.P-10(c) : Signature of Scribe
Ex.P-11 : Notarised copy of Aadhaar card
Ex.P-12 : Notarised copy of Aadhaar card

3. List of witnesses examined on behalf of respondent/s:

- NIL -

4. **List of documents marked on behalf of respondent/s:**

- NIL -

(NIRMALA .K.)

IV Addl. District & Sessions Judge,
Doddaballapura