

KABR40000082025



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

Dated 06th Day of April 2026

: PRESENT:

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

P & S.C. No. 10034 / 2025

PETITIONER : **Smt. Shivamma**
W/o. Late Ganghadaraiah @
Gangadharappa
Aged about 75 years
R/at. Chikkabelavangala Village
Doddabelavangala Hobli
Doddaballapura Taluk
Bengaluru Rural District
(Reptd. by Sri. G.G., 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 05.12.2019.

2. It is the case of petitioner that, one Gangadharaiah @ Gangadharappa S/o. Late Maluru Siddappa is the husband of petitioner. During his life time he has acquired the petition schedule property under darkasth as per order of Tahasildar No.LNDRUC 16/2003-04 under UCR Scheme. The name of Gangadharaiah was entered in the revenue records vide M.R.No.3/2004-05. Since from the date of grant, he was the absolute owner in possession and enjoyment of the petition schedule property cultivating the same. After the property was made phodi and No.21 was given. Since petitioner was looking after Gangadharaiah he executed registered Will on 05.12.2019 in favour of petitioner and expired on 25.11.2022. Petitioner found the Will in the box which was maintained by deceased and came to knowledge about the Will in September 2025. She is entitled for the petition schedule property. When she applied for transfer of katha, the revenue authorities 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. Petitioner in order to prove her case got examined herself 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-13.

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 petitioner has 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:-** The petitioner contended that, she is the legally wedded wife of testator Gangadharaiah @ Gangadharappa and to prove the relationship she has produced Vamshavruksha as per Ex.P-1. Further, according to her, the petition schedule property was granted in favour of Gangadharaiah and he was the absolute owner. To show the said fact, she has produced Ex.P-2 - Saguvali chit, Ex.P-3 – Tax paid receipt, Ex.P-4 Grant certificate, Ex.P-5 Survey Sketch, Ex.P-6 and Ex.P-7 M.R. extracts, Ex.P-8 – R.T.C. Extracts. These documents clearly indicate that the Gangadharaiah was the absolute owner of petition schedule property. After the phodi proceedings, new Sy.No.21 was given to the petition schedule property.

9. Further, petitioner submit that she was taking care of her husband and out of love and affection he has executed

registered Will in her favour. In support of her contention, she has produced Ex.P-9 – Death certificate of Gangadharaiah, Ex.P-10 and Ex.P-11 – Aadhaar cards of deceased Gangadharaiah and petitioner, Ex.P-12 – Will. On perusal of these documents, it is seen that the petitioner is the wife of deceased Gangadharaiah. Further petitioner contended that petition schedule property is the self-acquired property of deceased Gangadharaiah, which clearly indicate that Gangadharaiah was the absolute owner in possession of petition schedule property.

10. Petitioner submit that she was looking after him during his last days. So, out of love and affection he has executed the Will in favour of petitioner.

11. Petitioner in support of his above contention has produced Ex.P-9 – death certificate, Ex.P-12 Will. On perusal of these documents, discloses that the petitioner is the wife of Gangadharaiah. Out of love and affection, he executed Will in favour of petitioner as per Ex.P-12 and died on 25-11-2022 as per Ex.P-9. Therefore, the above documents clearly goes to substantiate the contention of petitioner.

12. Regarding the above aspects, PW-1 has clearly reiterated in her evidence. Further, she state that he was looking after her husband Gangadharaiah during his last days and out of his love and affection he has executed Will in favour of petitioner as per Ex.P-12. The said document is attested by witnesses Kumar and Kempaiah and the said document was prepared by Sri. M. Eshwaraiah. 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-12(a) and 12(b). They also identified the signature of deceased Gangadharaiah Scribe of said Will at Ex.P-12(d) and 12(c) respectively.

13. 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 examined both the attesting witnesses to the said Will dated 05.12.2019 – **Sri. Kumar** S/o.Late Mahadevaiah as **P.W-2** and **Sri. T. Kempaiah**, S/o. Late Thimmadasappa as **P.W-3**. They have clearly deposed in their evidence about the execution of Will by late Gangadharaiah. After he has put his signature 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-12 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 petitioner has taken paper publication as per Ex.P-13, nobody have appeared and contested the case. This shows that, above oral evidence of P.W-1 to P.W-3 and Ex.P-12 Will they have been remained unchallenged. These materials clearly goes to substantiate the contention raised by the petitioner.

14. Thus from the above discussion, it is clear that petitioner has produced sufficient materials to show about the relationship between petitioner and deceased. The petition schedule property was bequeathed in favour of petitioner 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 petitioner has remained unchallenged. The learned counsel for petitioner 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-12 is the last Will of the testator. The petitioner is the only legal heir. Till date, no other rival claimants to the petition. Therefore, there is no impediment to grant the probate in favour of petitioner. Moreover, they requires probate to effect change of khatha in the name of petitioner. Thus, considering the entire materials available on record, I am of the clear opinion that, petitioner is entitled for the relief claimed. **Accordingly, answered in the affirmative.**

15. **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 late Gangadharaiah @ Ganghadarappa S/o. Late Maralu Siddappa.

(Dictated to the Stenographer, transcribed and computerized by her and transcript corrected by me and then pronounced in open Court on this the **06th Day of April 2026**)

(NIRMALA. K.)

IV Addl. District & Sessions Judge,
Doddaballapura

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

- P.W-1 : Shivamma
P.W-2 : Kumar
P.W-3 : T. Kempaiah

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

- Ex.P-1 : Affidavit showing Family G.Tree
Ex.P-2 : Copy of Saguvali Chit Extract
Ex.P-3 : Copy of Tax paid receipt
Ex.P-4 : Copy of Official memorandum
Ex.P-5 : Survey Sketch
Ex.P-6 : Mutation register extract
Ex.P-7 : Mutation register extract
Ex.P-8 : R.T.C. Extract
Ex.P-9 : Death certificate
Ex.P-10 : Notarized copy of Aadhaar card
Ex.P-11 : Notarized copy of Aadhaar card
Ex.P-12 : Original Will dated 05.12.2019
Ex.P-13 : Kannada Hosadigantha Kannada daily NewsPaper
Ex.P-13(a) : Extract in Ex.P-13

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