

KACB010020732025



Presented on : 08-12-2025
Registered on : 08-12-2025
Decided on : 08-06-2026
Duration : 06 months

IN THE COURT OF PRL. DISTRICT AND SESSIONS JUDGE,
AT : CHIKKABALLAPURA

Dated this the 08th day of June 2026

Present :

Sri. T.P. RAMALINGE GOWDA,
B.Sc., LL.M., M.B.A.
Principal District and Sessions Judge,
Chikkaballapura.

O.S. No. 11 OF 2025
(P & SC. No. 10/2025)

Plaintiff :
Plaintiffs

Sri. K.N.Jayaramareddy
S/o Late Dodda Narasimhappa,
@ Dodda Narasimhaiah,
Aged about 69 years,
R/at Kambalapalli Village,
Somenahalli Hobli,
Gudibande Taluk,
Chickballapur District.
(By Pleader Sri. N.R., Advocate)

- V e r s u s -

Defendant :
Defendant/s

1. Smt.Ashwathamma
D/o Late Maddaleti and Late Maddakka,
Aged about 34 years,
R/at Kambalapalli Village,
Somenahalli Hobli,
Gudibande Taluk.

2. Sri.Narayanappa
S/o Late Dodda Narasimhappa,
@ Dodda Narasimhaiah,
Aged about 65 years,
R/at Kambalapalli Village,
Somenahalli Hobli,
Gudibande Taluk.
3. Sri.Ashwathappa
S/o Late Dodda Narasimhappa,
@ Dodda Narasimhaiah,
Aged about 58 years,
R/at Kambalapalli Village,
Somenahalli Hobli,
Gudibande Taluk.
4. Smt.Savithramma
D/o Late Dodda Narasimhappa,
@ Dodda Narasimhaiah,
W/o Narayanswamy
Aged about 50 years,
R/at Kariganathammanahalli Village,
Kasaba Hobli,
Gudibande Taluk,
Chickballapur District.
5. Smt.Narayanamma.K.V
D/o Late Venkatarreddy,
W/o K.N.Jayaramareddy,
Aged about 55 years,
R/at., 21st Ward,
Manasa Hospital Road,
Bagepalli Town and Taluk,
Chickballapur District.
6. Smt.Adilakshmamma
D/o Late Venkatarreddy,
W/o Mallaraju,
Aged about 53 years,
R/at., Yadiyuru Village and Post,
Channarayapatna Hobli,
Devanahalli Taluk,
Bangalore North District.

7. Smt.Manjula.K.V
D/o Late Venkatareddy,
W/o Muddireddy,
Aged about 50 years,
R/at., Niragentipalli Village,
Acheipalli Post,
Mitemari Hobli,
Bagepalli Taluk,
Chickballapur District.
8. Smt.Savithramma.K.V
D/o Late Venkatareddy,
W/o Chinnareddy,
Aged about 48 years,
R/at., Basavanaparthi Village,
Mandikal Hobli,
Chickballapur Taluk and District.
9. Sri.K.V.Manjunatha
S/o Late Venkatareddy,
Aged about 46 years,
R/at., Kondavalahalli Village,
Beechaganahalli Post,
Gudibande Taluk,
Chickballapur District.
10. Sri.Narayanaswamy.K.V
S/o Late 28.11.2025Venkatareddy,
Aged about 44 years,
R/at., 21st Ward,
Manasa Hospital Road,
Bagepalli Town and Taluk,
Chickballapur District.
**(D-1 & 3 Rep. by Sri.M.S.A., Advocate,
D-6 to 10 Rep. By Sri R.C.S., Advocate,
D2 appeared in person
D4 & 5 - absent)**

Date of Institution of the suit : 08-12-2025

Nature of the suit [suit on pro- : Probate
note, suit for declaration and
possession suit for injunction etc.]

Date of commencement of : 05-02-2026
recording of the evidence

Date on which the judgment was : 08.06.2026
pronounced

Total Duration	Year/s	Month/s	Day/s
	0	06	00

JUDGMENT

The plaintiff/petitioner has filed petition under Section 276 of The Indian Succession Act, 1925 (herein after referred in short as '**Act**') seeking probate in respect of the Will dated 29.06.1995 executed by the testator namely Dodda Narasimhappa @ Dodda Narasimhaiah in respect of the schedule properties.

2. At the out set it is worthy to mention that, initially the plaintiff has filed a petition under Section 276 of Indian Succession Act, 1925 for an order of probate in respect of the Will dated 29.06.1995 executed by one late Dodda Narasimhappa @ Dodda Narasimhaiah. Later the present defendants have filed objections by denying the execution of the Will in favour of the plaintiff on various grounds. As the defendants have seriously contested the matter this case is ordered to be registered as original suit as per the provision envisaged under Section 295 of Indian Succession Act, vide order dated 19.11.2025. Accordingly,

the probate petition has been registered as original suit and numbered as O.S.No.10/2025.

3. Brief facts of the plaintiff's case as averred in the plaint are as under:

That the deceased Sri.Dodda Naraimhappa had two wives by name Chinnamma and Akkulamma. The 1st wife Chinnamma was died leaving behind Narasamma as her only legal heir. Smt.Narasamma was also died. The petitioner and respondent No.2 to 4 are the children of late Dodda Narasimhappa @ Dodda Narasimhaiah and late Akkulamma. The respondent No.1 is the granddaughter of late Dodda Narasimhappa @ Dodda Narasimhaiah and daughter of late Maddaleti and late Maddakka. The property bearing Sy.No.29 measuring 4-17 guntas, out of which half share situated at Kabbalahalli Village, Somenahalli Hobli, Gudibande Taluk is the self acquired property of deceased Dodda Narasimhappa @ Dodda Narasimhaiah and he has acquired the same through registered sale deed from J.Venkatashami vide No.617/1974-75, Book-1, Volumn-176, pages 136-138 dated 30.09.1974. The khata and mutation are also accepted in the name of the father of the petitioner. Accordingly the petitioner's father

had become the absolute owner in possession and enjoyment of the above said property.

4. Further contended that the deceased Dodda Narasimhappa @ Dodda Narasimhaiah was under the care and protection of petitioner. Having faith, love and affection on the petitioner, his father Dodda Narasimhappa @ Dodda Narasimhaiah bequeathed the Will in favour of petitioner on 29.06.1995 in respect of the above said property. Sri.Dodda Narasimhappa @ Dodda Narasimhaiah demised on 15.01.1998 at the residence of petitioner at Kabbalahalli Village, Somenahalli Hobli, Gudibande Taluk. The petitioner and his family members have performed the funeral ceremonies of Dodda Narasimhappa @ Dodda Narasimhaiah as per the Hindu rites and customs. After demise of Dodda Narasimhappa @ Dodda Narasimhaiah the petitioner has become the absolute owner in possession and enjoyment of the above said property. The petitioner has fulfilled the contents of testament as desired by the testator. Thus, the petitioner is legally entitled to get mutation and khata of the petition schedule properties into his name.

5. Further it is contended that the survey authorities have phoded and assigned the above said property bearing Sy.No.29, measuring 4-17 guntas, situated at Kabbalahalli Village,

Somenahalli Hobli, Gudibande Taluk, Chickballapur District as Sy.No.29/1 measuring 1-17.08 guntas, Sy.No.29/2 measuring 1-22 guntas and Sy.No.29/3 measuring 1-17.08 guntas. The khata and mutation to an extent of 0-28.12 guntas in Sy.No.29/1, an extent of 0-31 guntas in Sy.No.29/2 and an extent of 0-28.12 guntas in Sy.No.29/3 of Kabbalahalli Village, Somenahalli Hobli, Gudibande Taluk, Chickballapur Taluk was standing in the name of the father of the petitioner. Basing on the unregistered Will dated 29.06.1995 the petitioner has approached the concerned authorities for change of khata and mutation in his name. But the concerned authorities have orally directed the petitioner for production of Probate Certificate. Hence, he has filed this petition.

6. After filing of the petition a paper publication was issued and the same was published in Hosadigantha Kannada daily, dated 16.05.2025. The respondent No.1 and 3 have appeared through their counsel. But, the respondent No.4 remained absent. Later on 06.08.2025 the counsel for the petitioner filed an application under Order I Rule 10(2) read with Section 151 of CPC for impleading the proposed respondents as respondent No.5 to 10 in the petition. Accordingly, notice was issued to the proposed respondents. Further on 09.09.2025 the said application was

allowed and the proposed respondents are brought on record as respondents 5 to 10. After impleading of the respondents 5 to 10, the respondent No.6 to 10 appeared through their counsel. But the respondent No.5 remained absent.

7. The respondent No.2/defendant No.2 filed a memo stating that he has no objections to allow the petition.

8. The 1st respondent/defendant No.1 had filed statement of objection/written statement by denying the petition averments. He has further stated that, the propositus of the family of the petitioner and respondents is one Dodda Narasimhappa. He is no more. He got two wives namely Chinnamma and Akkulamma. The said deceased Dodda Narasimhappa got only daughter through 1st wife i.e., Narasamma W/o Late Venkatareddy. She had six children namely Narayanmma.K.V., Adilakshamma.K.V., Manjula.K.V., Savithramma.K.V., Manjunath.K.V., Narayanaswamy.K.V. They are still alive and they are not made as parties in this petition. The deceased Dodda Narasimhappa got four children through his second wife namely Jayaramareddy (petitioner), Madaleti and his wife Madakka. Both are died leaving behind their only daughter by name Ashwathamma.K.M (respondent No.1), 2nd son Narayanappa and 3rd son Ashwathappa (they are respondent No.2

and 3) and 4th daughter Savithramma (respondent No.4). The disputed property is purchased by the deceased Dodda Narasimhappa out of joint family funds and joint family earnings on behalf of joint family members from one J.Venkataswamy. At the time of funeral ceremonies of deceased Dodda Narasimhappa, both the legal heirs from 1st and second wife are all involved in funeral ceremonies of deceased Dodda Narasimhappa. After demise of Dodda Narasimhappa all the joint family properties are jointly enjoyed by the legal heirs of deceased Dodda Narasimhappa. But, the petitioner suppressed the real and true material facts before this court and filed this petition only in order to grab the joint family properties.

9. It is further contended that, as per the alleged Will deed dated 29.06.1995 the disputed property was not standing in the name of the deceased Dodda Narasimhappa. In turn the disputed property was purchased in the name of Dodda Narasimhappa vide Reg.No.617/1974-75 dated 30.09.1974. The khata was also standing in the name of the deceased Dodda Narasimhappa. But one Subbanna, Dodda Nagappa, Chinnappa who were strangers to the disputed property got transferred the khata of disputed property in their names illegally. In this regard the legal heirs of Dodda

Narasimhappa filed case before the Assistant Commissioner's Court under RA G 98/2020-21 dated 15.12.2023. As per the orders of the said proceedings the disputed property was transferred in the name of deceased Dodda Narasimhappa under mutation No.MR T 7/2023-24. Until then the said Dodda Narasimhappa was not having khata in his name. Without khata in the name of the Dodda Narasimhappa, he is unable to execute Will deed in respect of dispute property. It clearly goes to show that the alleged unregistered Will deed is fabricated one. The petitioner intentionally created the Will deed in respect of disputed property. But, since from the date of purchase of property the legal heirs of Dodda Narasimhappa i.e., petitioner and respondents and other family members who were not impleaded in this petition were jointly enjoying the property by raising various crops as the disputed property is not divided between joint family members. The petitioner has suppressed the real facts before this court and filed petition by virtue of fabricated unregistered Will deed and the same Will deed is null and void and is not binding to the joint family shares over the disputed property. Hence, prayed to dismiss the petition.

10. The respondent No.6 to 10/defendant No.6 to 10 have filed statement of objection/written statement by denying the petition averments. They have further stated that, one Dodda Narasimhappa was the propositus of the family of the petitioner and respondents. During his life time he married two wives namely Chinnamma and Akkulamma. The said Dodda Narasimhappa got only daughter through his 1st wife Narasamma. She was married with one Venkatareddy. Both are now no more and they got 6 children viz., Narayanamma.K.V, Adilakshamma.K.V., Manjula.K.V., Manjunatha.K.V., Savithramma.K.V., Narayanaswamy.K.V., who are respondent No.5 to 10. Further, the said Dodda Narasimhappa got 4 children through his 2nd wife Akkulamma viz., Jayaramareddy.K.N (petitioner), Maddaleti, who was married with one Maddakka, both are now no more and they were leaving behind their daughter Ashwathamma (respondent No.1) to succeed their estate, Narayanappa (respondent No.2), Ashwathappa (respondent No.3) and Savithramma (respondent No.4).

11. Further contended that, the disputed landed property bearing Sy.No.29/1 measuring 0-28.12 guntas of land, Sy.No.29/2 measuring 0-31 guntas of land, Sy.No.29/3 measuring 0-28.12

guntas of land are all part and parcel of Sy.No.29, which is totally measuring 4-17 guntas of land situated at Kamabalahalli village, Somenahalli hobli, Gudibande Taluk, Chikkaballapur District along with other properties. The said property was purchased by Dodda Narasimhappa out of the income derived from the joint family and other joint family properties from one J.Venkataswamy S/o Yamanna through registered sale deed No.617/1974-75 dated 30.09.1974. The said Dodda Narasimhappa died on 15.01.1998 leaving behind his legal representatives i.e., petitioner and respondent No.1 to 10 to succeed his estate and all are having equal right, interest and share over the petition schedule properties including other properties and all are enjoying jointly since from the date of death of Dodda Narasimhappa. Still there is no partition between the members of joint family. The petitioner has suppressed the real facts before this court and filed this frivolous petition under the forged Will, same was created behind the back of respondents. As such the alleged Will is null and void and not binding on the share of respondent No.5 to 10. At the time of funeral ceremonies of deceased Dodda Narasimhappa all the legal heirs of Dodda Narasimhappa were involved and performed his funeral ceremonies. But, the petitioner has intentionally

suppressed the material real facts and filed this false petition under the created and forged Will only with an intention to grab the joint family properties. Since the petition schedule properties are joint family properties and all parties are having equal right, interest and share over the same the alleged Will dated 29.06.1995 and therefore it is the duty of the petitioner to prove the case by filing declaration suit before competent court of law. Hence, prayed to dismiss the petition.

12. Based on the aforesaid said rival pleadings, following issues are framed.

ISSUES

- 1) Whether the plaintiff prove that testator had executed the unregistered Will dated 29.06.1995 by bequeathing the schedule properties in his favour ?
- 2) Whether the plaintiff proves the due execution of the Will dated 29.06.1995 ?
- 3) Whether the plaintiff is entitled for the relief sought for ?
- 4) What order or decree ?

13. On behalf of the petitioner the petitioner has been examined as PW.1 and got marked 10 documents as per Ex.P1 to

Ex.P10. Further he has examined one witness by name Bommireddy as PW2. On the otherhand, the defendant No.1 and defendant No.6 to 10 have neither cross-examined PW.1 and 2 nor adduced defence evidence.

14. Heard the arguments of counsel for plaintiff. As the defendants have neither subjected Pw.1 and 2 for cross-examination nor adduced defence evidence, their side arguments is taken as nil.

15. My findings on the above issues are as under:

Issue No.1 to 3: ***In the Affirmative.***

Issue No.4: As per final order for the following:

REASONS

16. **Issue No.1 to 3 :-** As all these issues are interconnected with each other, they are taken up together for common discussion to avoid repetition of facts and evidence.

17. It is the case of the petitioner/plaintiff that, he and respondent No.2 to 4 / defendant No.2 to 4 are children of testator Sri.Dodda Naraimhappa @ Dodda Narasimhaiah and the respondent No.1 is the grand-daughter of Dodda Narasimhappa @ Dodda Narasimhaiah and daughter of late Maddaleti and Late Madakka. The property bearing Sy.No.29 totally measuring 4-17 guntas out of which half share situated at Kabbalahalli Village, Somenahalli Hobli, Gudibande Taluk was the self acquired

property of Dodda Narasimhappa @ Dodda Narasimhaiah. The same was acquired under sale deed dated 30.09.1974 vide No.617/1974-75, Book-1, Volume-176, page 136-138 and he was in peaceful possession and enjoyment of the same till his death. The survey authorities have phoded and assigned the said property bearing Sy.No.29 measuring 4-17 guntas as Sy.No.29/1, Sy.No.29/2 and Sy.No.29/3. The khata and mutation of Sy.No.29/1 measuring 1-17.08 guntas out of which 0-28.12 guntas, Sy.No.29/2 measuring 1-22 guntas out of which 0-31 guntas and Sy.No.29/3 measuring 1-17.08 guntas out of which 0.28.12 guntas are standing in the name of the testator. Out of love and affection the testator Dodda Narasimhappa @ Dodda Narasimhaiah had bequeathed the schedule properties in favor of the petitioner, who is none other than his son by executing the unregistered Will dated 29.06.1995 in presence of attesting witnesses. The testator died on 15.01.1998. The schedule properties are situated at Kambalahalli Village, Somenahalli Hobli, Gudibande Taluk, Chikkaballapura District within the jurisdiction of this court.

18. In order to prove his case, the petitioner himself examined as PW1 and he has filed affidavit evidence by retreating the petition averments. In support of his case, he has produced the Original unregistered Will said to have been executed by his father

Dodda Narasimhappa @ Dodda Narasimhaiah dated 29.06.1995 at Ex.P1, Certified copy of Will dated 05.11.1997 at Ex.P2, Certified copy of relinquishment deed dated 15.12.2018 Ex.P3, Three RTC at Ex.P4, Certified copy of sale deed dated at Ex.P5, Death certificate of testator Dodda Narasimhappa at Ex.P6, RTC extracts at Ex.P7, Genealogical tree at Ex.P8, Notarized copy of Aadhar card of petitioner at Ex.P9 and Hosadigantha Kannada daily News paper publication dated 16.05.2025 at Ex.P10.

19. The petitioner has also examined one attesting witness as PW2 and he has stated that he knew Dodda Narasimhappa @ Dodda Narasimhaiah and the said Dodda Narasimhappa @ Dodda Narasimhaiah has executed a Will in favour of the petitioner by bequeathing the petition schedule properties and affixed his thumb impressions on all the pages of the Will and identified the thumb impression of the testator on the last page of Ex.P1 as Ex.P1(b) and his signature on Ex.P1 as Ex.P1(a). At the time of execution of Will, the testator was hale and healthy having sound state of mind. The testator himself called him while execution of the Will stating that he is executing the Will in favor of petitioner by bequeathing properties and along with him Sri.Narayanappa has also signed on the Will as attesting witness.

20. On careful perusal of Ex.P1, it shows that Sri. Dodda Narasimhappa @ Dodda Narasimhaiah had executed the Will in the presence the attesting witnesses on 29.06.1995. Further, certified copy of sale deed at Ex.P5 discloses that the Dodda Narasimhappa @ Dodda Narasimhaiah has purchased the Sy.No.29 from one T.Venkataswamy. Handwritten RTC in respect of Sy.No.29, computerized RTC in respect of Sy.No.29/1, computerized RTC in respect of Sy.No.29/2 and computerized RTC in respect of Sy.No.29/3 Ex.P7 stands in the name of Dodda Narasimhappa @ Dodda Narasimhaiah. The Genealogical affidavit at Ex.P8 discloses that the petitioner and respondent No.2 to 4 are the children of testator Dodda Narasimhappa @ Dodda Narasimhaiah and the respondent No.1 is the grand-daughter of Dodda Narasimhappa @ Dodda Narasimhaiah. That apart, the attesting witness PW2 has categorically stated that deceased testator Dodda Narasimhappa @ Dodda Narasimhaiah executed a Will as per Ex.P1 on 29.06.1995 in his presence. The respondent No.2 appeared in person and filed a memo stating that he has no objections to allow the probate petition in favor of petitioner. The respondents No.4 and 5 remained absent.

21. On the contrary, eventhough respondent No.1 and respondent No.6 to 10 have filed objection / written statement by denying the petition averments, they have neither subjected PW-1 and PW-2 for cross-examination nor adduced their defence evidence in order to prove the contentions taken in the objection / written statement. Even after publication of notice in newspaper as per Ex.P10 none appeared. As such, the entire oral and the documentary evidence adduced by the petitioner / plaintiff remained unchallenged and uncontroverted. Consequently, there are no impediments to grant probate. Thus, the petitioner is entitled for Probate as sought for in the petition. Accordingly, ***I answer issue No.1 to 3 in the affirmative.***

22. **Issue No. 4 :-** In view of my finding on point No. 1, I proceed to pass the following ;

ORDER

The suit of the plaintiff is decreed.

The petition filed by the petitioner under section 276 of Indian Succession Act, 1925 is allowed.

The office is directed to issue Probate after collecting the requisite fee.

The office is directed to preserve the original Will as envisaged under Sec. 294 of Indian Succession Act, 1925.

No order as to costs.

Draw decree accordingly.

(Dictated to the STENOGRAPHER GRADE-III directly on computer, revised and corrected by me, signed and then pronounced in the Open Court on this the 8th day of June 2026)

(T.P. RAMALINGE GOWDA)

Prl. District and Sessions Judge,
Chikkaballapura.

ANNEXURE

Witnesses examined on behalf of Plaintiff:-

PW1 K.N.Jayaramareddy

PW2 Bommireddy

Witnesses examined on behalf of defendants:-

- NIL -

Documents exhibited on behalf of Plaintiff:-

Ex.P1 Original Will dated 29.06.1995

Ex.P1(a) Signature of PW-2 on Ex.P1

Ex.P1(b) Thumb impression of testator on Ex.P1

Ex.P2 Certified copy of Will dated 05.11.1997

Ex.P3 Certified copy of relinquishment deed

Ex.P4 Three RTCs

Ex.P5 Certified copy of sale deed

Ex.P6 Original death certificate

Ex.P7 One handwritten RTC and five computerized RTC

Ex.P8 Original Genealogical tree
Ex.P9 Notarized copy of Aadhar card
Ex.P10 Newspaper publication

Documents exhibited on behalf of defendants:-

- NIL -

(T.P. RAMALINGE GOWDA)
Prl. District and Sessions Judge,
Chikkaballapura.