

KACD010003562025



Presented on : 29-01-2025
Registered on : 30-01-2025
Decided on : 27-07-2026
Duration : 01 Year 05 Months, 28 days.

IN THE COURT OF 1ST ADDL. DISTRICT AND SESSIONS JUDGE
AT CHITRADURGA, CHITRADURGA

Present :- SRI. VEERANNA SOMASEKHARA
B.Com., LLB (Spl.)
1st Addl. Dist & Sessions Judge,
Chitradurga

Dated this 27th day of July 2026

P & S.C. No.09/2025

Petitioners:- 1) S. Sathyananda S/o Late P. Shivanappa, Aged about 51 years, Occ: Agriculturist,
2) S. Gajendra S/o Late P. Shivanappa, Aged about 47 years, Occ: Agriculturist,
Both are R/o Shivaganga Nilaya, Sangoli Rayanna Road, Gandhinagara, Challakere Town, Chitradurga District.
(By Sri. Abdul Jaleel Zulfaquar, Advocate)

/Vs/

Respondent:- S. Vedavathi W/o M.K. Somashekhara, Aged about 59 years, R/o S.R. Road, Gandhi Nagara, Challakere.
(By Sri. Ashok .V., Advocate)

**ORDERS ON PETITION U/SEC.276 OF INDIAN SUCCESSION
ACT**

The petitioners have filed this petition U/S.276 of the Indian Succession Act, seeking to grant probate in favour of them in respect of the registered Will dated 25.08.2016 executed by their mother Smt. Gangamma W/o Late Shivanappa in favour of them in respect of the petition schedule property.

2. The brief case of the petitioner are as under:-

The contention of the petitioners is that, they are the children of deceased Smt. Gangamma W/o Late Shivanappa resident of Challakere Town. Further it is the contention of the petitioners that, the petition schedule property was acquired by their mother Smt. Gangamma through her husband and since then, she was in possession and enjoyment of the said property as a owner till her death. Further it is the contention of the petitioners that, on 09.12.2024, their mother Smt. Gangamma died left behind them as her legal-heirs.

3. Further it is the contention of the petitioners that, during the life time, their mother Smt. Gangamma had executed 03 separate registered Wills dated 25.09.2012, 25.08.2016 and 25.01.2021 respectively in respect of petition schedule property and other properties bequeathing the said properties in favour of them in the presence of witnesses. Further it is the contention of the petitioners that, on 25.08.2016, deceased Gangamma had executed the Will in favour of them in respect of the petition

schedule property without any threat or coercion from anybody and also in sound disposing state of mind.

4. Further it is the contention of the petitioners that, in the last Will dated 25.01.2021, executed by deceased Smt. Gangamma, there are clear recitals about the division and arrangements of other properties excluding the property mentioned in the Will to her daughters.

5. Further it is the contention of the petitioners that, deceased Smt. Gangamma is having 03 daughters and 02 sons. Among three daughters, the 1st daughter by name Smt. Sumithamma had executed a registered relinquishment deed dated 06.11.2019 in respect of her share over the petition schedule property by receiving an amount of Rs.4,50,000/- and also the 2nd daughter by name Vedavathi has received her share in the joint family properties through the registered Will dated 28.10.1996 and the 3rd daughter by name Smt. S. Lokamathe has received her share in the joint family properties through registered Will dated 15.01.2005. Further it is the contention of the petitioners that, after the death of their mother Gangamma, the above said Wills are acted upon.

6. Further it is the contention of the petitioners that, on 09.12.2024, their mother Smt. Gangamma was died leaving behind them as her legal-heirs, as such, after the death of their mother, they have approached the concerned revenue official with a request

to effect the Khata of the petition schedule property in their favour as their mother had executed the Registered Will in their favour in respect of the petition schedule property. But, at that time, the concerned revenue authority have issued the endorsement dated 13.01.2025 to the petitioners with a direction to get probate in their names from the competent court of law, as such, the cause of action arose for filing this petition before this court.

7. Further it is the contention of the petitioners that, their mother deceased Smt. Gangamma has duly executed the Will in favour of them in respect of petition schedule property which is well within the knowledge of all the remaining heirs of said Gangamma and after her death, the petitioners succeeded to her estate through testamentary document i.e., Will dated 25.08.2016 and except the petitioners, no one have any right, title or interest over the petition schedule property, as such, after the death their mother they became the absolute owners of the petition schedule property.

8. Further it is the contention of the petitioners that, after the death of their mother Smt. Gangamma, all the 03 Wills are found in the records kept and maintained by her in the house and the same are well within the knowledge of remaining heirs of deceased Smt. Gangamma.

9. Further it is the contention of the petitioners that, to change the Khata of the petition schedule property in their names, the probate certificate is very much necessary to them, as such, the cause of action arises for filing this petition. Alleging the above said

cause of action, the petitioners have filed this petition seeking to grant probate in their favour.

10. After institution of this petition, a notice was duly published in a **“Vijaya Karnataka daily newspaper dated 20.02.2025”** calling upon the interested persons to appear before the court. After the said publication, the respondent has appeared before the court through her counsel by filing proper application. Thereafter, as per the orders passed by this court, the petitioners have amended the petition and filed the amended petition before the court. Thereafter, inspite of granting sufficient time, the respondent has not present before the court and not filed the objections to the petition, as such, objection to petition by respondent taken as not filed.

11. Thereafter, in order to prove the case, the petitioner No.1 has examined himself as PW-1 and got marked the documents as Ex.P1 to Ex.P3. In support of his evidence, the petitioners have examined one witness as PW-2 and got marked 01 document as Ex.P4.

12. Heard the arguments and perused records.

13. The following points that would arises for my consideration are:-

- 1) Whether the petitioners are entitled for
Probate as prayed for?
- 2) What order?

14. My findings on the above points are as under
Point No.1: In the **Affirmative**,
Point No.2: As per final order for the following:-

REASONS

15. **POINT No.1:-** It is the case of the petitioners that, they are children of deceased Smt. Gangamma W/o Shivappa, resident of Gandhinagara, Challakere Town. Further it is the contention of the petitioners that, the petition schedule property is the self acquired property of her mother Smt. Gangamma, as such, the khata of the said property is standing in her name and also till her death, she was in possession and enjoyment of the petition schedule property as owner. Further it is the contention of the petitioners that, during the lifetime, their mother Smt. Gangamma had executed a Registered Will dated 25.08.2016 in their favour bequeathing the petition schedule property and the said Will was prepared in the presence of two independent witnesses namely Sri. Koti Chandrashekhar and Sri. N.S. Muddappa. The deceased testator Smt. Gangamma was aged about 70 years and also she was mentally and physically fit at the time of execution of the said Will.

16. Further it is the contention of the petitioners that, their mother Smt. Gangamma died on 09.12.2024 leaving behind them as her legal-heirs, as such, after the death of Smt. Gangamma and also as per the Will executed by her, they are entitled the petition

schedule property as their mother had bequeathed the petition schedule property in favour of them through a registered Will.

17 As stated above that, in order to prove the case, the petitioner No.1 has examined himself as PW-1 and in support of his evidence, one witness has been examined as PW-2. On perusal of the records, it shows that, the petitioner No.1/PW-1 has stated in his evidence by reiterating the contents of petition filed by him. Further in support of his evidence, he has produced the documents and the same are marked as Ex.P1 to Ex.P4.

18. Further the petitioners have produced the original registered Will said to have been executed by Smt. Gangamma on 25.08.2016 as per Ex.P4. Further the petitioners have produced the copy of Record of Rights as per Ex.P1 and on perusal of the contents of the same, it shows that, the khata of petition schedule property is standing in the name of mother of petitioners i.e., deceased Smt. Gangamma. The said Ex.P1 discloses the name of the deceased testator Smt. Gangamma is the owner and in possession of the petition schedule property till her death.

19. On the other hand on perusal of the contents of Ex.P2 i.e., endorsement dated 13.01.2025, it shows that, after the death of Gangamma, the petitioners have submitted the requisition before the learned Tahasildar, Challakere requesting to effect khata of the petition schedule property in their name. Then, the concerned

Tahasildar had issued the said endorsement as per Ex.P2 to the petitioners.

20. Further the petitioners have produced copy of death certificate of testator by name Smt. Gangamma as per Ex.P3. On perusal of the contents of the said document, it shows that, the testator by name Smt. Gangamma W/o Late P. Shivanappa died on 09.12.2024 at S.R.Road, Gandhi Nagara, Challakere Town.

21. Further to prove the registered Will at Ex.P4 executed by the mother of the petitioners by name Smt. Gangamma, the petitioners have examined one witness by name Sri. Koti Chandrashekhar as PW-2. The PW-2 has stated in his evidence that, he knew the petitioners and also their mother by name Smt. Gangamma. Further he has stated in his evidence that, during the lifetime, the said Gangamma was under the care and custody of petitioners, as such, on 25.08.2016, the said Gangamma had executed the Will at Ex.P4 in his presence and also in the presence of one Sri. N.R. Muddappa in respect of the petition schedule property and at that time, as per the instructions of said Smt. Gangamma, one Smt. T.Shakunthala has prepared the said Will. Thereafter, Smt. Gangamma has put her signature to Ex.P4, then he and one Sri. N.R. Muddappa were signed the said document as witnesses and later the said Smt. T. Shakunthala was also signed the said document as a scribe and got registered the same in the Sub-Registrar Office, Challakere.

22. On careful perusal of the contents of Ex.P4 i.e., Registered Will dated 25.08.2016, it shows that Smt. Gangamma had executed the said Will in the presence of attesting witness i.e., PW-2 and also one Sri. N.R. Muddappa. Further as stated above that, on perusal of the contents of Ex.P1 i.e., RTC produced by the petitioners shows that, the petition schedule property belongs to deceased Smt. Gangamma W/o P. Shivanappa. Further the PW-2 has categorically stated that, during the lifetime, the said Smt. Gangamma had executed the Registered Will at Ex.P4 in the presence of him and one Sri. N.R. Muddappa in favour of the petitioners in respect of the petition schedule property.

23. Considering the above facts and circumstances of the case and on appreciation of evidence of PW-1 and PW-2, it is clear that, the petitioners have proved the Will at Ex.P4 as per the provisions of Indian Evidence Act. On the other hand, as stated above that, though the respondent has appeared before the court through her counsel, but inspite of granting sufficient time, she has not filed the objections to the petition and also not come forwards to cross-examine the PW-1 and PW-2. Considering the above facts and circumstances of the case and for the above reasons, I am of the opinion that, the evidence of PW-1 and PW-2 and documents produced by them are unchallenged one.

24. Considering the above facts and circumstances of the case and on appreciation of evidence of PW-1 and PW-2 coupled with contents of documents produced by the petitioners and for the

above reasons, I am of the opinion that, at this stage, there is no impediment for this court to grant the Probate in favour of the petitioners. Therefore, the petitioners are entitled the Probate as sought for in this petition. Accordingly, I answer the point No.1 in the **Affirmative**.

25. **Point No.2:-** In view of the above discussion and findings on point No.1, I proceed to pass the following:

ORDER

The petition filed by the petitioners under Section 276 of the Indian Succession Act is hereby allowed and Probate is ordered to be issued in respect of Registered Will dated 25.08.2016 executed by Smt. Gangamma W/o P. Shivanappa, resident of Gandhinagara, Challakere Town in favour of the petitioners.

The office is directed to issue probate certificate after collecting the requisite fee from the petitioners.

(Dictated to the Stenographer Grade-III directly on computer, corrected, signed and then pronounced by me in the open court on this the 27th day of July 2026).

(Veeranna Somasekhara)
1st Addl. Dist & Sessions Judge,
Chitradurga.

ANNEXURE**1) List of witnesses examined for the Petitioner/s:-**

PW-1 : Sri. S. Sathyananda
PW-2 : Sri. Koti Chandrashekhar

2) List of documents exhibited for the Petitioner/s:-

Ex.P1 : Copy of Record of Right
Ex.P2 : Endorsement dated 13.01.2025
Ex.P3 : Copy of Death Certificate
Ex.P4 : Original Registered Will dtd:25.08.2016
Ex.P4(a) : Signature of PW-2

3) List of witnesses examined for the Respondent/s:-

-Nil-

4) List of documents exhibited for the Respondent/s:-

-Nil-

(Veeranna Somasekhara)
1st Addl. Dist & Sessions Judge,
Chitradurga.

SML