

KACD010030322025



Presented on : 17-07-2025
Registered on : 17-07-2025
Decided on : 30-06-2026
Duration : 00 Year, 11 Months, 13 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 30th day of June 2026

P & S.C. No.53/2025

Petitioner:- T.V. Thippeswamy S/o Late T.S.
Veerabhadrapa, Aged about 59 years, Occ:
Agriculturist, R/o Channammanagathi hally
Village, Parashuramapura Hobli, Challakere
Taluk, Chitradurga District.

(By Sri. Honnesh .T., Advocate)

/Vs/

Respondent:- Nil

**ORDERS ON PETITION U/S.276 OF INDIAN SUCCESSION ACT,
1925**

The petitioner has filed this petition U/Sec.276 of the Indian
Succession Act, seeking to grant probate/letter of administration in

favour of him in respect of the registered Will dated 17.12.2020 executed by one Smt. Kamakshamma W/o Late T.S. Veerabhadrapa in favour of him in respect of the petition schedule properties.

2. The brief case of the petitioners is as under:-

The contention of the petitioner is that, the petition schedule properties are the agricultural lands and the said properties are situated at Mathsamudra Village and Kyadigunte Village, Parashuramapura Hobli, Challakere Taluk and the said properties are originally belongs to his mother by name Smt. Kamakshamma W/o Late T.S. Veerabhadrapa and the said properties are the self acquired properties of her, as such, the khata of the said properties are standing in the name of above said Kamakshamma and also she was in peaceful possession and enjoyment of the said properties till her last breath.

3. Further it is the contention of the petitioner that, during the life time of Kamakshamma, he has taken care of her and due to which and also due to the love and affection, when his mother Smt. Kamakshamma was having sound mind, hale and healthy, she had voluntarily executed the registered Will dated 17.12.2020 in his favour in the presence of witnesses and also scribe in respect of the petition schedule properties.

4. Further it is the contention of the petitioner that, her mother by name Smt. Kamakshamma died on 21.07.2021, at Apollo

Hospitals, B.G.Road, Bangalore left behind the Will, as such, after her death, he became the absolute owner and in possession and enjoyment of the petition schedule properties.

5. Further it is the contention of the petitioner that, during the lifetime, his mother Smt. Kamakshamma had duly executed the registered Will dated 17.12.2020 at Challakere bequeathing the petition schedule properties in favour of him and the said properties are situated at Mathsamudra and Kyadigunte Villages of Parashurampura Hobli, Challakere Taluk, as such, the same are within the jurisdiction of this court.

6. Further it is the contention of the petitioner that, after the death of his mother, he has approached the concerned revenue official with a request to effect the Khata of the petition schedule properties in his favour as his mother had executed the Registered Will in his favour in respect of the petition schedule properties. But, at that time, the concerned revenue authority has instructed him to get probate in his name from the competent court of law. Hence, to change the Khata of the petition schedule properties in the name of petitioner, the probate certificate is very much necessary to the petitioner, as such, the cause of action arise for filing this petition. Alleging the above said cause of action, the petitioner has filed this petition seeking to grant probate in his favour.

7. After institution of this petition, a notice was duly published in a **“Udayakala daily newspaper dated 13.08.2025”**

calling upon any interested persons to appear before the court. In spite of said publication, none have appeared before the court.

8. Thereafter, in order to prove the case, the petitioner has examined himself as PW-1 and got marked the documents as Ex.P1 to Ex.P14. In support of his evidence, the petitioner has examined two witnesses as PW-2 and PW-3 and got marked 01 document as Ex.P15.

9. Heard the arguments and perused records.

10. The following points that would arise for my consideration are:-

1) Whether the petitioner is entitled for Probate as prayed for?

2) What order?

11. 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

12. **POINT No.1:-** It is the case of the petitioner that, he is the son of deceased Smt. Kamakshamma W/o Late T.S. Veerabhadrappe, resident of Channammanagathihalli Village, Parashurampura Hobli, Challakere Taluk. Further it is the contention of the petitioner that, the petition schedule properties are the self acquired properties of his mother Smt. Kamakshamma, as

such, khata of the said properties are standing in her name and also till her death, she was in possession and enjoyment of the petition schedule properties as owner. Further it is the contention of the petitioner that, during the lifetime, his mother Smt. Kamakshamma had executed a Registered Will dated 17.12.2020 in favour of him bequeathing the petition schedule properties in favour of him and the said Will was prepared in the presence of two independent witnesses namely Sri. Chandrashekharappa P.R. and Sri. Ramesh. Further it is the case of the petitioner that, at the time of execution of the above said Will, the deceased testator Smt. Kamakshamma was aged about 85 years and she was mentally and physically fit.

13. Further it is the contention of the petitioner that, his mother Smt. Kamakshamma died on 21.07.2021 left behind him as her only legal-heir, as such, after the death of his mother Smt. Kamakshamma and also as per the Will executed by her, he is entitled the petition schedule properties as his mother had bequeathing the petition schedule properties in favour of him under Will.

14. On perusal of the records, it shows that, to prove the case, the petitioner has examined himself as PW-1 and in support of his evidence, two witnesses have been examined as PW-2 and PW-3. The petitioner has produced the original Registered Will dated 17.12.2020 said to have been executed by Smt. Kamakshamma as per Ex.P15.

15. The petitioner has produced the copy of Record of Rights and Mutation Register Extracts in respect of the petition schedule properties as per Ex.P2 to Ex.P13. On perusal of the contents of the above said RORs and Mutation Register Extracts discloses that, khata of petition schedule properties are standing in the name of mother of petitioner i.e., deceased Smt. Kamakshamma. The said Ex.P2 to Ex.P13 discloses the name of the deceased testator Smt. Kamakshamma is the owner and in possession of the petition schedule properties till her death.

16. Further on perusal of the records, it shows that, the petitioner has produced the copy of death certificate standing in the name of Smt. Kamakshamma as per Ex.P14 and also produced the genealogical tree as per Ex.P1. On perusal of the contents of the document at Ex.P14, it shows that, the testator by name Smt. Kamakshamma died on 21.07.2021 at Apollo Hospitals, B.G.Road, Bangalore.

17. Further on perusal of the records, it shows that, to prove the contents of registered Will at Ex.P15 executed by the mother of the petitioner by name Smt. Kamakshamma, the petitioner has examined two witnesses by name Sri. Chandrashekharappa .P.R. and Sri. Ramesh as PW-2 and PW-3. The PW-2 and PW-3 have stated in their evidence that, they knew the petitioner and also his mother by name Smt. Kamakshamma and also stated that, during the lifetime, the said Kamakshamma

was under the care and custody of petitioner and due to which and also due to love and affection, on 17.12.2020, the said Kamakshamma had executed the Will at Ex.P15 in the presence of them in favour of the petitioner in respect of the petition schedule properties. Further they have stated in their evidence that, as per the instruction of said Smt. Kamakshamma, the Deed Writer by name Sri. V. Dayananda, Challakere Town was prepared the said document and at that time, they were present and signed the said document as witnesses, as such, they knew the contents of the said document. After signed the said document by the witnesses, the deed writer was also signed the said document as a scribe and got registered the same in the Sub-Registrar Office, Challakere.

18. On careful perusal of the contents of Ex.P15 i.e., Registered Will dated 17.12.2020, it shows that, Smt. Kamakshamma had executed the said Will in the presence of attesting witnesses i.e., PW-2 and PW-3. Further as stated above that, on perusal of the contents of Ex.P2 to Ex.P13 i.e., RTCs and Mutation Register Extracts produced by the petitioner, it shows that, the petition schedule properties are belongs to deceased Smt. Kamakshamma. On the other hand, the PW-2 and PW-3 have categorically stated that, during the lifetime, the said Smt. Kamakshamma had executed the Registered Will at Ex.P15 in the presence of them and one Sri. V. Dayananda, Deed Writer in favour of the petitioner in respect of the petition schedule properties.

19. Considering the above facts and circumstances of the case and on appreciation of evidence of PW-1 to PW-3 coupled with contents of Ex.P15, it is clear that, the petitioner has proved the Will at Ex.P15 as per the provisions of Indian Evidence Act. Further as stated above that, inspite of paper publication, none of the interested persons have appeared before the court and contested the case. 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 to PW-3 and the documents produced by them are unchallenged one.

20. Considering the above facts and circumstances of the case and on appreciation of evidence of PW-1 to PW-3 coupled with contents of documents produced by the petitioner 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 petitioner. Therefore, the petitioner is entitled the Probate as sought for in this petition. Accordingly, I answer the point No.1 in the **Affirmative**.

21. **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 petitioner under Section 276 of the Indian Succession Act is hereby allowed and Probate is ordered to be issued in respect of the Registered Will dated 17.12.2020

executed by Smt. T. Kamakshamma W/o Late T.S. Veerabhadrappa, resident of Channammanagathihalli Village, Parashurampura Hobli, Challakere Taluk, in favour of the petitioner.

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

(Dictated to the Stenographer Grade-III directly on computer, corrected, signed and then pronounced by me in the open court on this the 30th day of June 2026).

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

ANNEXURE

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

PW-1 : Sri. T.V. Thippeswamy
PW-2 : Sri. Chandrashekharappa .P.R.
PW-3 : Sri. Ramesh

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

-Nil-

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

Ex.P1 : Notarized Copy of Genealogical Tree
Ex.P2 to 6 : Copy of Record of Rights
Ex.P7 to 13 : Copy of Mutation Register Extracts
Ex.P14 : Copy of Death Certificate
Ex.P15 : Original Registered Will dtd: 17.12.2020
Ex.P15(a & b): Signatures of PW-2 and PW-3

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

-Nil-

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

SML