



Presented on : 15-12-2025
Registered on : 16-12-2025
Decided on : 27-04-2026
Duration : 4 months 12 days

**IN THE COURT OF THE PRL. DISTRICT & SESSIONS
JUDGE, AT: CHITRADURGA**

Present: *Sri Ron Vasudev, B.Com,LL.B.(Spl)*
Prl. District & Sessions Judge,
Chitradurga

Dated this the 27th day of April, 2026

P & SC No.112/2025

Petitioner :	K.B.Thippeswamy S/o Late K.Basanna, aged about 59 years, Occ: Advocate/Agriculturist, R/o D.No.3/1, 2 nd Main, Subedarapalaya, Near Ganesha Temple, Yeshwanthapura, Bengaluru North, Bengaluru - 560 022.
	(By Sri.M.Suresh, Advocate.)

/versus/

Respondent:	-NIL-
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ORDER

This petition is filed U/S.276 of the Indian Succession Act.

2. The summary of the petition averments is that one K.Basanna S/o Thippaiah is the father of the petitioner and the said Basanna was the absolute owner of four properties described in the petition

schedule namely - 1) land bearing Sy.No.79/7 measuring 10 guntas 2) Sy.No.79/1 measuring 19 guntas out of total extent of 38 guntas, 3) Sy.No.88/2 measuring 02 acres 23 guntas, 4) Sy.No.64/1B measuring 4 acres 22 guntas, all these properties situating at Nagaramgere village. That the said K.Basanna S/o Thippaiah i.e., father of this petitioner executed Will on 16.01.2021 when he was in sound state of mind, hale and healthy and bequeathed the said properties in favour of this petitioner. Unfortunately the said executant died on 05.08.2023 and subsequent there to the petitioner has become the absolute owner of the said properties and when he approached the revenue department to get mutate his name to the petition schedule items, they asked him to obtain probate, therefore the petitioner is before this court.

3. After registration of the petition in terms of I.A.No.1 filed U/Order 5 Rule 20 of CPC petitioner was permitted to issue notice in Kannada daily Vijayavani. Though the notice was duly published in the said daily on 24.12.2025 nobody appeared in response to it. In this connection, now the following points would arise for my consideration:

1. Whether the petitioner is entitled for probate of the will as prayed for?

2. What order?

4. In order to prove his case petitioner examined himself as PW.1 and one of the attessor as PW.2 and got marked Ex.P.1 to P.9. I have heard the arguments of Sri.PJD advocate for the petitioner and and perused the case file, 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

5. **Point No.1:-** Since the examination-in-chief of PW.1 is barely reproduces the contents of the petition, instead of copying it again, I have gone through the documents produced and relied by him. The Ex.P.1 is the registered Will dated 16.01.2021 said to have been executed by said K.Basanna S/o Thippaiah narrating how he got the item No.1 to 4 as described in the petition and stating that PW.1 is taking care of him, he further states that he is bequeathing the said items to him and he has already made enough arrangements for his elder son and to the daughters and also to the daughter-in-law of his late last son. The contents of the said instrument would prima-facie show that he executed that Will voluntarily and without any duress.

6. The Ex.P.2 is the death certificate of the said executant and it shows he died on 05.08.2023 at Nagaramgere; Ex.P.3 is the RTC of item No.1; Ex.P.4 is the RTC of item No.2; Ex.P.5 and P.6 are pertaining to

the item No.3 and 4. They collectively show the names of said executant in column No.9 by virtue of mutations shown in column No.10 of the said documents.

7. The Ex.P.7 is the registered partition deed dated 05.05.1990 indicating that after partition between himself and his brother, the said executant entered into partition with his wife and sons sharing the properties that had fallen to him. The Ex.P.8 is another registered partition deed entered amongst the executant and his three sons and it is dated 16.04.1997. In the Ex.P.8 wife of the executant is not a party. I have gone through the both documents and in so far as Ex.P.7 is concerned petition items are not part of it, but item No.1 is involved in Ex.P.8 and it shows that the said property was retained by executant to his share. The said documents i.e., Ex.P.7 and 8 being the registered documents, they evidence that partition was effected by the said K.Basanna S/o Thippaiah during his life time amongst himself and his sons as well as his wife, indicating that he had separate properties to his share so as to bequeath them to the petitioner/PW.1. The Ex.P.9 is the Kannada daily Vijayavani dated 24.12.2025 and it shows that petition notice was duly published in the said newspaper, but nobody appeared staking their claim.

8. By examining the PW.2, one of the attessor to the Ex.P.1, the PW.1 has met the requirement of provisio to Sec.67 of BSA. The PW.2 stated that he was called by the said executant and in their presence the Ex.P.1 was executed and after signing of it by the executant, himself and co-attessor signed the same. He identified his signature at Ex.P.1(a) and that of the executant at Ex.P.1(b). In that background again I have gone through the said instrument and on page No.5 of that Will it is noticed that while referring to the Ex.P.7 and 8 i.e., partition deeds dated 05.05.1990 and 11.04.1997, the executant has put a condition to the PW.1 to get haddubasth of item No.4 measuring 4 acres 22 guntas and to give 1 acre each to his three daughters i.e., K.B.Bhagyamma, K.B.Manjula and K.B.Sunitha and remaining 1 acre 22 guntas shall be retained by the PW.1. The executant has also put a condition that the said distribution of 1 acre each to the three sisters of PW.1 shall be through a registered instrument. Thus subject to the above condition and holding that the PW.1 is obliged to follow the said instruction of the expectant, I answer this point in the affirmative.

9. **POINT No.2:-** In the result, I proceed to pass the following;

ORDER

Petition filed U/S.276 of Indian Succession Act is allowed.

Office to issue probate in respect of Will said to have been executed by K.Basanna S/o Thippaiah in respect of Will dated 16.01.2021 pertaining to item No.1 to 4 of petition schedule.

The petitioner shall comply and adhere to the condition contained in page 5 of the said Will by sharing 1 acre each to his sisters K.B.Bhagyamma, K.B.Manjula and K.B.Sunitha in Item No.4 of the petition schedule through a registered deed after getting Haddubasth of the said land.

The Revenue Authority shall make entry of this petition number in the appropriate column of the revenue records of item No.1 to 4 of the petition schedule.

(Dictated to the Stenographer Grade-III, transcribed and typed by him, corrected, printout taken, signed and pronounced by me in the open Court on this the 27th day of April, 2026.)

(Ron Vasudev)

Prl. District & Sessions Judge,
Chitradurga.

ANNEXURE

List of witnesses examined for petitioner :-

PW.1	-	K.B.Thippeswamy
PW.2	-	H.T.Mallikarjunappa

List of documents exhibited for plaintiff :-

- Ex.P-1 - Registered Will dated 16.01.2021
- Ex.P.1(a) - Signature of PW.2
- Ex.P.1(b) - Signature of Basanna
- Ex.P.2 - Death certificate of Basanna
- Ex.P.3 - RTC
- Ex.P.4 - RTC
- Ex.P.5 - RTC
- Ex.P.6 - RTC
- Ex.p.7 - C/c partition deed dated 05.05.1990
- Ex.p.8 - C/c partition deed dated 11.04.1997
- Ex.P.9 - Relevant portion of paper publication
in Kannada daily Vijayavani news paper

List of witnesses examined for Respondent:-

-NIL-

List of documents exhibited for Respondent:-

- NIL -

(Ron Vasudev)

Prl. District & Sessions Judge,
Chitradurga.

*SG