

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC AT
HIRIYUR**

Dated on this 15th day of July 2024

**Present: SMT. SUJATHA SUVARNA B.,
B.Com., LL.B.,**

**Senior Civil Judge & JMFC,
Hiriyur
OS No.11/2016**

PLAINTIFF

**: Smt. Lokamma
Dead by Lrs.**

1(a). N.R Mallanna
S/o. Late. Rudranna (Dead)
Aged about 84 years,
Agriculturist,
R/o. Nandihalli village,
Pitlali post, Hiriyur taluk.

1(b) N.M Kanthamma,
W/o. T.R Vasanthakumar,
Aged about 52 years,
House hold,
R/o. Nandihalli village,
Pitlali post, Hiriyur taluk.

1(c) Smt. N.M Umadevi,
W/o. D.S Basavaraj,
Aged about 50 years,
House hold,
R/o. Donnehalli village & post,
Jagalur taluk, Davanagere district.

1(d) N.M Swamy
S/o. N.R Mallanna,
Aged about 44 years,

1(e) N.M Manasa,

D/o. Late N.M Uma Maheshwara,
Aged about 16 years,
Student, minor,
Represented by her maternal
uncle, guardian N.R Mallanna
S/o. Late Rudranna,
Aged about 84 years,
Agriculturist,
R/o. Nandihalli village,
Pitlali post, Hiriya taluk.

[Rep. By Sri.RGS/TDK Advocate]

DEFENDANTS
Vs
:

Shantakumari
Dead by LR's

The plaintiffs and defendant No.2 to
18 are the legal heirs of
defendant No.1.

2. Sri. Shankaramurthy
Dead by LR's

2(a) Smt. G.T Shashikala
W/o. Late. Shankaramurthy,
Aged about 72 years,
house wife,

2(b) Dr. H.S Viswanath
S/o. Late. Shankaramurthy,
Aged about 43 years,

2(c) Dr. Smt. Shilpashree
W/o.Sriprasad Sarpur
Aged about 41 years,

2(d) Smt. Spoorti
W/o. Vinod
Aged about 37 years,
Occ: Engineer

All are R/o. D.No.337/32
Banashree nilaya,
Near KSRTC bus stand,
Davangere

3. Smt. Parvathamma

W/o. Rajashekaraih
Aged about 72 years,
house hold,
R/o. No.240,
Karishivappanagalli,
Maharaja Pet,
Davangere

4. Smt. Chandramma

W/o. Late. Basavaraja,
Dead by LR's

4(a) Smt. Premalatha

W/o. Murthy,
Aged about 35 years,

4(b) Sri. Santhosh

S/o. Late Basavaraja,
Aged about 30 years,
Both are agriculturist
R/o. Ranganathapura village,
Hiriyur Taluk, Chitradruga Dist.

5. A.S Jagadeesh

S/o. Late. Siddaramappa,
Occ: Business,
R/o. Siddarameshwara
nilaya, behind LIC building
PB road, Hiriyur.

6. A.S Basaraja

S/o. Siddaramappa,
Aged about 58 years,
Occ: Engineer in

Irrigation Dept.
Krushi Nagar, No.120,
Tumkur.

7. A.S Chandrashekar
S/o. Late. Siddaramappa
Aged about 56 years,
R/o.#B/7/1,Grasim Colony,
Kumarapattanam,
Ranebennur Tauk.

8. Smt. Rajeswari
Dead by LR's

8(a) Virupanna
@ Virupakshappa,
S/o. Eranna,
Aged about 73 years,

8(b) Veerakshi
W/o. A.S Chandrashekara,
Aged about 73 years,

8(c) B.V Gurusiddappa
S/o. Virupanna
@ Virupakshappa,
Aged about 52 years,

8(d) B.V Chidananda
S/o. Virupanna
@ Virupakshappa,
Aged about 50 years,

8(e) B.V Vijaya
W/o. Shivakumar
Aged about 48 years,

8(f) B.V Suputra
S/o. Virupanna
@ Virupakshappa,

Aged about 45 years,

All are R/o. Babbur village,
near milk dairy,
Babbur post,
Hiriyur Taluk,
Chitradruga District.

9. Chidanandappa

S/o. Yeraguntappa,
Aged about 67 years,
Ret. Bank employee,

10. Sandesh

S/o. Chidanandappa,
Aged about 40 years,

11. Sowmya

W/o. Mohan,
D/o Chidanandappa
Aged about 38 years,
House hold
#26, Venugopal badavane,
Ganga Nagar, R.T Nagar,
Bengaluru

12. Smt. Yasoda

W/o. Late. Ravikumar
Aged about 55 years,
House hold,

13. Ajay Kumar

S/o. Late. Ravikumar
Aged about 27 years,
Both are R/o B.M Layout,
Behind Ambedkar school,
Hiriyur Town

14. Smt. Swetha

W/o. Nagaraja

Aged about 29 years,
C/o Bangarappa,
1st main, 6th cross,
Marulasiddeswara Nilaya
Samathkal road,
Chitradruga.

15. Smt. C.P Geetha,
W/o. Late. Thippeswamy,
Aged about 55 years,
House hold

16. Mayur
S/o. Late. Thippeswamy,
Aged about 23 years,
Student,
No.4881/18, Near
Durgambika school,
Saraswathi Badavane,
Davangere

17. Sadashiva
S/o. Late Mahadevappa,
Aged about 45 years,
Business,
Shakti Steels, main road,
Hiriyur Town

18. Sudarani
W/o. Siddaaramanna
Aged about 42 years,
house hold,
Shakti Steels, main road,
Hiriyur Town

19. Ravindranath R.K
S/o. Krishnappa,
Aged about 32 years,
Agriculturist,

Javanagondanahalli village,
Hiriyur Taluk.

20. R. Manjesh

S/o. Late. Rudranna,
Aged about 47 years,
Behind urdu school,
Nehru maidan,
Hiriyur Town.

[D.19, 20 Sri. SJ, D.15. 16 Rep. By Sri. BJ Advocates Lrs of D.2 and D.4, D.8 and D.9 to 11, 14 and 18 are placed exparte. D.3, 5 to 7, 12, 13 and 17 absent]

RANK OF THE PARTIES ON I.A.NO.XVI

Applicant / : **G. Ravishankar**
S/o. Late. Gurusiddappa,

Opponents/ defendant : **G. Shanthakumari &**
others

i	Provision under which the application is filed	IA No.16 U.Sec.151 CPC
ii	Relief sought for	IA No.16 return back the original registered will
iii	The date on which the application is filed	17.01.2024
iv	Number of the application	1
v	The date on which the objections are filed by different opponent	22.06.2024

ORDERS ON I.A.NO. XVI

The applicant has filed this application U.Sec.151 of CPC and prays to return back the original registered will dated: 09.10.2020 to the applicant.

2. Per contra the plaintiff has filed objections and stated as follows:

The application filed by the applicant is not maintainable. The applicant has filed this application only to drag on the proceedings and applicant have men power and political influence and in order to grab the property of the plaintiff the applicant has filed this application. Hence, prayed to reject the application.

3. Heard and perused the materials on record.

4. The points that would arise for consideration of this court are as follows:

1. Whether the application filed by the applicant is deserved to be allowed?

2.What order?

5. The findings of this court on the above points are:

Point No.1:- In the Affirmative

Point No.2:- As per final order,

for the following,

:REASONS:

6. Point No.1: The applicant filed this application and prayed to return back the original registered will dated: 09.10.2020 to the applicant. In support of this application the applicant has filed affidavit and stated that, the defendant No.1 is his own elder sister and during her life time she has executed a registered will dated: 09.10.2020 in his favour and he intended to obtain probate to the said will before the jurisdictional district and Sessions Judge Chitradurga.

7. The plaintiff contended that, only to drag on the proceedings the applicant filed this application. The applicant filed IA.No.14 U.O 1 R. 10 of CPC and prays to permit him to come on record as defendant No.21. Along with application the applicant has produce the registered will. Till today application under Order 1 Rule 10 of CPC is pending and not decided on

merit. Hence, nobody prevented the applicant to take back the original document. The applicant himself contended that, defendant No.1 has executed the will in his favour. Hence, burden cast upon him to prove the same. The said document is registered document. If the document is returned to the applicant no hardship will be caused to the plaintiff. Hence, considered the facts and circumstances and in the ends of justice it is fit case to allow the application. Hence, I answer the above point in affirmative.

Point No.2: In the result, I proceed to pass the following:

ORDER

IA.No.16 filed by the applicant is hereby
allowed.

Office is directed to return the original
registered will to the applicant after obtaining
the copy on proper identification.

(Dictated directly to the steno, she typed on lap top, corrected by me and then pronounced
in the open court on this the 15th day of July 2024)

(SUJATHA SUVARNA. B)
Senior Civil Judge & JMFC,
Hiriyur.