

KADG010001172026



Presented on : 09-01-2026

Registered on : 09-01-2026

Decided on : 04-04-2026

Duration : 0 years, 2 months, 26

days

**IN THE COURT OF  
II ADDL DISTRICT AND SESSIONS JUDGE DAVANGERE AT  
DAVANGERE, DAVANGERE  
Presided Over by SRI. PRAVEEN KUMAR.R.N**

**P and SC/3/2026**

**PETITIONER :**

1. Jayappa S/o Ajjappa,  
Age: 57 years, Occ: Agriculturist,
2. Sri. Suresh S/o Ajjappa,  
Age: 51 years, Occ: Agriculturist

Both are R/o: 1059, Behind APMC Market  
Old Chikkanahalli, Tq: Dist: Davanagere.

**VERSUS**

**RESPONDENT. -**

NIL

=====

Sri.K.N.E., Advocate appearing for Petitioner  
Respondent - Nil

=====

## J U D G M E N T

This is a petition filed by the petitioner under Section 372 of the Indian Succession Act, 1925 seeking probate in respect of the petition schedule property in the name of the petitioners as per the Will executed by Sri. B.Ajjappa S/o Basappa, in favour of the petitioners and to grant such other reliefs.

2. The petitioner's case in brief is that,

The petitioners are the sons of late B. Ajjappa S/o Basappa. The said Ajjappa had purchased agricultural properties bearing Sy.No.55/3A measuring 1 acre 05 guntas and Sy.No.55/3B measuring 2 acres 35 guntas (out of 4 acres), situated at Lingapura Village, Anagodu Hobli, Davanagere Taluk, under a registered sale deed dated 30.01.1968, registered as Document No.4119 in the office of the Sub-Registrar, Davanagere. The said properties are the self-acquired properties of Ajjappa.

3. After purchase, Ajjappa was in peaceful possession and enjoyment of the said properties as absolute owner and khatedar, and the revenue records, including RTCs, stood in his name. He had also paid land revenue in respect of the said

properties (hereinafter referred to as the “schedule properties”). Ajjappa had a wife, Smt. Shantamma, and four children, namely, two sons—Jayappa and Suresh (the petitioners herein)—and two daughters, Sumithamma and Manjamma. During his lifetime, Ajjappa performed the marriages of his daughters by raising loans, which were subsequently discharged by the petitioners.

4. In his old age, out of love and affection towards his sons, Ajjappa executed a Will dated 05.05.1997 bequeathing the schedule properties equally in favour of the petitioners. Ajjappa died on 20.03.1999, leaving behind the said testamentary document. The petitioners state that they came to know about the said Will only in the second week of November 2025, when one of the attesting witnesses, Ramappa S/o Kenchappa of Lingapura Village, informed them about the same.

5. After obtaining the Will, the petitioners, being the legatees, claim to have come into possession and enjoyment of the schedule properties.

6. The petitioners thereafter approached the Tahasildar, Davanagere Taluk, seeking mutation of their names in the revenue records on the basis of the said Will. However, the concerned authority insisted upon production of a probate and

did not effect the mutation.

7. The petitioners contend that the schedule properties are the absolute self-acquired properties of Ajjappa and that no other person has any right, title, or interest over the same. They further state that no other application for probate or succession certificate in respect of the said properties has been filed by any other person.

8. The cause of action for the petition arose on the date of execution of the Will i.e., 05.05.1997, and subsequently when the petitioners approached the Tahasildar in December 2025 and their request for mutation was not considered.

9. The petitioners are residents within the jurisdiction of this Court, and the schedule properties are also situated within its jurisdiction. Hence, this Court has jurisdiction to entertain the petition. Hence, the petition.

10. In response of the notice issued through paper publication in Kannada Daily News Paper "KannadaPrabha" dated 15.1.2026 to appear and to file objections if any to the petition, but none have appeared before the court as respondents and this petition remained uncontested.

11. During the course of trial, the petitioner in support of his case has examined himself as PW-1 and got marked 7

documents as per ExP.1 to 7. Further the petitioner examined two more witnesses as P.W.2 & P.W.3.

12. Heard the arguments of learned counsel for petitioner and perused the records. The points that arise for my consideration are:-

(1) Whether the petitioners are entitled to probate to the registered Will dated 05.05.1997 with respect to the petition schedule property as prayed?

(2) What order?

13. My answers to the above points are as under:-

Point No. 1 : Affirmative,

Point No. 2 : As per final order,

for the following:

14. Point No.1:- On careful perusal of the pleadings and the evidence placed on record, it is the specific case of the petitioners that they are the sons of deceased B. Ajjappa S/o Basappa, who died on 20.03.1999. The petitioners have approached this Court seeking grant of probate in respect of the Will dated 05.05.1997, said to have been executed by the deceased Ajjappa in their favour in respect of the schedule properties. It is also their case that the revenue authorities have insisted upon production of probate for the purpose of

effecting mutation of revenue records in their names.

**15.** In order to substantiate their case, petitioner No.2 has examined himself as P.W.1 and has reiterated the averments made in the petition in his chief-examination. He has also produced documentary evidence marked at Ex.P.1 to Ex.P.7. Ex.P.4 is the death certificate of Ajjappa, which establishes that he died on 20.03.1999. Ex.P.5 is the death certificate of Shantamma, the wife of Ajjappa. Ex.P.3 is the genealogy tree, which discloses the relationship between the parties and establishes that the petitioners are the legal heirs of the deceased.

**16.** The petitioners have also produced Ex.P.1 and Ex.P.2, which are the RTC extracts pertaining to Sy.No.55/3A and Sy.No.55/3B. These documents disclose that the said properties stood in the name of deceased Ajjappa during his lifetime. Thus, the material placed on record clearly indicates that the deceased was in possession and enjoyment of the schedule properties as their absolute owner.

**17.** Further, Ex.P.6 is the newspaper publication in "Kannada Prabha," which shows that public notice has been issued with regard to the claim of the petitioners. Despite such publication, no objections have been received from any quarter opposing the petition or disputing the Will.

**18.** In order to prove the execution of the Will, the petitioners have produced the Will dated 05.05.1997, which is marked as Ex.P.7. The petitioners have examined one of the attesting witnesses to the Will, namely C.G. Nagappa, as P.W.2. In his evidence, P.W.2 has categorically deposed that Ajjappa executed the Will in favour of the petitioners and that he has attested the said Will in the presence of the testator. Ex.P.7(a) is the signature of P.W.2 found on the Will.

**19.** The petitioners have also examined Mallikarjuna K.B., the scribe of the Will, as P.W.3. In his evidence, P.W.3 has deposed that he typed the Will as per the instructions of Ajjappa. Ex.P.7(d) is the signature of P.W.3 on the Will. Ex.P.7(b) and Ex.P.7(c) are the thumb impressions of the testator Ajjappa found on the Will.

**20.** The evidence of P.W.2 and P.W.3 clearly establishes that the Will was executed by the deceased Ajjappa while he was in a sound and disposing state of mind and that the same was duly attested by the witnesses. Their testimony remains unshaken and there is nothing on record to disbelieve their version. The petitioners have thus satisfactorily proved the due execution and attestation of the Will as required under law.

**21.** It is also pertinent to note that no objections have been raised by any person in respect of the petition. There are no

suspicious circumstances brought on record to doubt the genuineness of the Will. On the contrary, the oral and documentary evidence placed on record consistently support the case of the petitioners.

**22.** Therefore, upon appreciation of the entire oral and documentary evidence on record, this Court is of the considered opinion that the petitioners have successfully proved that deceased B. Ajjappa S/o Basappa executed the Will dated 05.05.1997 in their favour. The petitioners, being the legatees under the said Will, are entitled to seek grant of probate in respect of the schedule properties. Accordingly, I answer Point No.1 in the **Affirmative**.

23. POINT NO. 2 :- In view of the finding of this court on point No.1, I proceed to pass the following :-

#### O R D E R

The petition filed by the petitioner is hereby allowed.

Probate is hereby granted in favour of the petitioners in respect of the registered Will dated 05.05.1997, executed by Late B.Ajjappa S/o Basappa, pertaining to the schedule properties annexed to the petition, after

collecting necessary stamp duty/court fee.

NOTE: Certified copy of this order shall be furnished only after collecting necessary fees.

(Dictated to Stenographer directly on the computer, corrected, signed and then pronounced by me in the open court this the 4<sup>th</sup> day of April, 2026)

Sd/-  
( Praveen Kumar R.N.)  
II Addl. District & Sessions Judge,  
Davanagere.

### **ANNEXURE**

#### **Witness examined on behalf of the petitioner/s:-**

PW.1 : Suresh  
PW.2 : C.G.Nagappa  
PW.3 : Mallikarjuna K.B.

#### **Documents marked on behalf of petitioner/s:-**

Ex.P.1 & 2 : Sy.No.55/3A and 55/3B RTC extracts  
Ex.P.3 : Genealogical Tree  
Ex.P.4 : Death certificate of Ajjappa  
Ex.P.5 : Death certificate of Shantamma  
Ex.P.6 : News paper extract  
Ex.P.7 : Will Deed

**For respondent/s:** -Nil -

II Addl. District & Sessions Judge,  
Davanagere.