



**IN THE COURT OF THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, D.K. MANGALURU, SITTING AT
PUTTUR, D.K.**

Dated: - This the 21st day of July 2026

PRESENT

SRI. SADANANDA NAGAPPA NAIK., BAL. L.L.B.,
V Additional District And Sessions Judge,
D.K., Mangaluru, sitting at Puttur D.K.

:: P & S.C. NO.5002/2025 ::

Petitioner: - Sri. Henry Crasta
aged about 52 years,
S/o Late Illari Crasta
R/at Pannebailu, Kallugundi,
Sampaje Village, Sullia Taluk,
D K District.

(By Sri. Shashikumar U Advocate)

-Versus.

Respondent: - Nil

: ORDERS :

The petitioner has filed petition under Section 276 of the
Indian Succession Act, praying for grant of Probate based on

the Will dated 23.09.2017 of Late. Smt. Eliza Pinto in the interest of justice.

2. The brief facts of the averments of the petition is as follows;

That, the property in survey No. 29/4 measuring 13.50 cents of land, situated at Sampaje village, Sullia Taluk, D K District originally belonged to Smt. Eliza Pinto and she had acquired the same through deed of partition dated 16.02.1995, which is registered as document No. 1201 of the year 1994-95 at pages 181 to 186 of volume 457 of Book 1 at the office of Sub Registrar, Sullia and she was in possession and enjoyment of the same. Smt. Eliza Pinto had executed her last Will dated 23.09.2017, which is registered as document number MDK-3-00031 of the year 2017-18, which is stored at Compact Disc 148 of Book 3 at the office of Sub Registrar, Madikeri. The said Will was executed in the presence of Mr. Joy D'Souza and Mr. Lucas T I. Their signatures, name and address appear at the foot of the Will. As per the terms of the said Will, Smt. Eliza Pinto had bequeathed the property described in the schedule in favor of the petitioner. The said Will is drafted by Mr. D.N. Dominik, Advocate, Madikeri. Mr.D.N. Dominik, advocate,

Madikeri has handed over the aforesaid Will dated 23.09.2017 stating that the petitioner is the legatee under the said Will. Thereafter, the petitioner has come to know about the said Will of Smt Eliza Pinto. Smt. Eliza Pinto died on 21.03.2025 and the Will stated above became operative and enforceable. At the time of the death of the said Smt. Eliza Pinto, her permanent and fixed place of residence was Kallugundi, Sampaje village, Sullia Taluk within the jurisdiction of this Hon'ble Court. The petitioner is the legatee of the said Will dated 23.09.2017 and entitled to the property mentioned in the said Will. This petition is filed for obtaining the Probate/letter of administration of the Will executed by Smt. Eliza Pinto and the petitioner is entitled to obtain the Probate of the said Will. Hence, the petitioner prays that Probate may be granted to the Petitioner with Will dated 23.09.2017 of Smt. Eliza Pinto and such other and consequential reliefs as the court may deem fit to grant.

3. After filing the petition, Paper publication was published by the Petitioner to notify the General Public about institution of the petition seeking Probate. However, no person had appeared before the Court raising any objections.

4. In order to prove that, he is entitled for Probate, the petitioner has been examined himself as PW1 and attesting witness is examined as PW2 and the document writer to the said Will is examined as PW3 and got marked the documents at Ex.P.1 to 4.

5. By virtue of the above facts and circumstances, the following points arise for my consideration: -

1. Whether the Petitioner proves that Smt. Eliza Pinto had bequeathed the petition schedule property in favour of petitioner under a registered Will Deed dated 23.09.2017?

2. Whether the petitioner is entitled for the relief as sought for?

3. What order?

6. Heard the arguments of the learned counsel for the petitioner.

7. My answer on the above points are as under:-

Point No.1 : In the Affirmative.

Point No.2 : As per the final order for the following reasons.

REASONS

8. **Point No.1 and 2** : These two points are inter related to each other. Hence, I have taken these two points for discussing to avoid repetition.

9. It is the case of the petitioner that, the property in survey No. 29/4 measuring 13.50 cents of land, situated at Sampaje village, Sullia Taluk, D K District originally belonged to Smt. Eliza Pinto and she had acquired the same through deed of partition dated 16.02.1995, which is registered as document No. 1201 of the year 1994-95 at pages 181 to 186 of volume 457 of Book 1 at the office of Sub Registrar, Sullia and she was in possession and enjoyment of the same. Smt. Eliza Pinto had executed her last Will dated 23.09.2017, which is registered as document number MDK-3-00031 of the year 2017-18, which is stored at Compact Disc 148 of Book 3 at the office of Sub Registrar, Madikeri. The said Will was executed in the presence of Mr. Joy D'Souza and Mr. Lucas T I. Their signatures, name and address appear at the foot of the Will. As per the terms of the said Will, Smt. Eliza Pinto had bequeathed the property described in the schedule in favor of the petitioner. The said Will is drafted by Mr. D.N. Dominik, Advocate, Madikeri. Mr.D.N. Dominik, advocate, Madikeri has handed over the aforesaid Will

dated 23.09.2017 stating that the petitioner is the legatee under the said Will. Thereafter, the petitioner has come to know about the said Will of Smt Eliza Pinto. Smt. Eliza Pinto died on 21.03.2025 and the Will stated above became operative and enforceable. At the time of the death of the said Smt. Eliza Pinto, her permanent and fixed place of residence was Kallugundi, Sampaje village, Sullia Taluk within the jurisdiction of this Hon'ble Court. The petitioner is the legatee of the said Will dated 23.09.2017 and entitled to the property mentioned in the said Will. This petition is filed for obtaining the Probate/letter of administration of the Will executed by Smt. Eliza Pinto and the petitioner is entitled to obtain the Probate of the said Will. Hence, prays to allow the petition as sought for.

10. In support of his contention, the petitioner has examined himself as PW-1. PW-1 in his evidence re-iterated the entire averments of the petition. Apart from oral evidence of PW-1, the petitioner has produced and got marked 4 documents as per Ex.P.1 to 4.

11. On perusal of Ex.P.1 to 4, it shows that Ex.P.1 is the death certificate of deceased Smt. Eliza Pinto, which shows that Smt. Eliza Pinto died on 21.03.2025. Ex.P2 is the RTC. On

perusal of the same, it shows that, the property bearing Sy. No.29/4, measuring 13.50 cents of land situated at Sampaje Village, Sullia Hobli, Sullia taluk is standing in the name of Smt. Eliza Pinto. Ex.P3 is the copy of aadhaar card of Petitioner. Ex.P4 is the original Will Deed. On perusal Ex.P.4, it shows that on 23.09.2017, Smt. Eliza Pinto, W/o Efrizen Pinto had executed this Will in favour of her younger sister's son Sri. Henry Crasta, who is petitioner in this case. Ex.P.4 further shows that Smt. Eliza Pinto had bequeathing her property i.e. the land bearing Sy. No.29/4, measuring 13.50 cents of land situated at Sampaje Village, Sullia Hobli, Sullia taluk

12. PW.2 Sri. Lukas T I and PW3 Sri. Dominic D N, Advocate, are the attesting witness No.1 and document writer respectively, in the said Will, executed by the late Smt. Eliza Pinto. In their deposition, they have stated that deceased Smt. Eliza Pinto had executed Will dated 23.09.2017 in their presence, while in good disposing state of mind and that the deceased had got prepared the Will.

13. On perusal of the entire materials on record, it is clear that during the lifetime of Smt. Eliza Pinto, she had executed the Registered Will Deed as per Ex.P.4 by

bequeathing her property in favour of petitioner. The said Smt. Eliza Pinto died on 21.03.2025. After demise of Smt. Eliza Pinto, the property shown in Ex.P4 – Will deed was not mutated in the name of the Petitioner as per Ex.P.4 Will Deed. Further, on perusal of Ex.P.4, it shows that, it is a registered Will and the petitioner is the sole Legatee. Hence, the present petitioner has filed the present petition seeking the Court to grant of Probate in his favour to get mutate the schedule lands in his name.

14. It is settled principle of Law as held by Hon'ble High Court of Karnataka in the cases of Smt. Rihana Vs Nil in MFA No. 3238/2019 dated 07.11.2019, Smt. Renuka Vs Nil, MFA No.4477/2023 dated 17.02.2025 and Sri. Jayaram B S Vs Nil, MFA No.8090/24 dated 06.06.2025, the sole legatee becomes executor under Will by necessary implication and he/she can maintain petition for probate.

15. In this case, admittedly, Ex.P.4 is the Will Deed and it is having own presumption. In this case, there is no dispute regard execution of Ex.P.4 in favour of petitioner. Ex.P.4 had executed in presence of two witnesses and the attested witness is examined as PW2 and document writer of the said Will Deed is examined as PW3 and they have identified their signatures as

attesting witness and document writer. Further, after issuance of paper publication, no one has appeared and contested the petition. Hence, this court is of the opinion that the petitioner has adduced cogent evidence and have proved due execution of the said Will. As such, the petitioner is entitled for the relief as sought for. Accordingly, I answer point No.1 and 2 in the Affirmative.

16. **Point No.3**: In the result, this Court proceeds to pass the following:

ORDER

The petition filed by the petitioner U/s 276 of Indian Succession Act 1925 is hereby allowed.

Consequently, office to issue Probate Certificate in the name of petitioner in respect of the petition schedule property as prayed for as per the Will dated 23.09.2017 executed by late Smt. Eliza Pinto, after obtaining necessary non judicial stamp paper and by collecting proper court fee as per the schedule.

Office is directed to preserve the original Will marked at Ex.P4 as required under Section 294 of the Indian Succession Act.

(Dictated to the stenographer, typed by her, corrected by me and then pronounced in the open Court, today the 21st day of July 2026).

(Sri. Sadananda Nagappa Naik)
V Addl. District And Sessions Judge,
D.K., Mangaluru, sitting at Puttur, D.K.

:: A N N E X U R E ::

1. WITNESSES EXAMINED FOR THE PETITIONER:-

PW.1	Sri. Henry Crasta	19.11.2025
PW.2	Sri. Lukas T I	09.06.2026
PW.3	Sri. Dominic D N	"

2. EXHIBITS MARKED FOR THE PETITIONERS:-

Ex.P1	Death certificate
Ex.P2	RTC
Ex.P3	Copy of aadhaar card
Ex.P4	Original Will

(Sri. Sadananda Nagappa Naik)
V Addl. District And Sessions Judge,
D.K., Mangaluru, sitting at Puttur, D.K.