

KAGD010006592025



**IN THE COURT OF PRL. DISTRICT AND SESSIONS JUDGE,  
GADAG**

**Dated this the 08th day of July, 2026**

PRESENT :

SMT. NAGAVENI, B.A. LL.B.,  
PRL. DISTRICT AND SESSIONS JUDGE,  
GADAG.

**P & SC. No.5/2025**

**PETITIONER/S:** Shivanandappa S/o. Veerappa Hadapad,  
Age: 39 years, Occ: Agriculture,  
R/o. Kodaganur, Tq: Gajendragad,  
Dist: Gadag.

(By Sri. T.V. Hiremath, Advocate)

Vs.

**RESPONDENT/S:** -NIL-

|      |                                                                              |                                                |
|------|------------------------------------------------------------------------------|------------------------------------------------|
| i.   | <i>Provision under which the application is filed</i>                        | <i>U/s 276 of Indian Succession Act, 1925.</i> |
| ii.  | <i>Relief sought for</i>                                                     | <i>Issue Probate Certificate</i>               |
| iii. | <i>The date on which the application is filed</i>                            | <i>12.03.2025</i>                              |
| iv.  | <i>Number of the application.</i>                                            | <i>--</i>                                      |
| v.   | <i>The date on which the objections are filed by different respondent/s.</i> | <i>--</i>                                      |
| vi.  | <i>The date on which the orders was passed on the said application.</i>      | <i>08.07.2026</i>                              |

**ORDER**

The petitioner has filed this petition u/Sec 276 of the Indian Succession Act 1925 to issue probate certificate of Will dtd.22.02.2021 in favour of the petitioner with respect to the petition schedule -A property i.e. agriculture land bearing R.S.No.167/P1 in the year 2021 in the said R.S. number the ADLR is sub divided the schedule property and given a new number R.S.No.167/3 measuring 06 acres 19 guntas situated at Kodaganur village in Gajendragad Taluk in Gadag District (hereinafter referred as the 'petition property') bounded by East: Land of Vantkundari, West: Land of Rotti, North: Land of Gorpade and South: Land of Dollinavar.

2. The brief facts of the case of petitioner's is that, one Smt. Shivavva W/o. Shankrappa Hadapad (hereinafter referred as 'the deceased testator') was residing in the house of the petitioner. The deceased testator is the sister of father of petitioner and she died on 25.12.2024 and her husband Shankrappa also died and they had no issues. The petition property was possessed by the deceased testator. The deceased testator made up her mind to bequeath the petition property in favour of the petitioner out of her love and affection towards the

petitioner. The petitioner was looking after the deceased testator during her life time till her death. Accordingly, the deceased testator executed a registered Will on 22.02.2021 and it was drafted at the instance of her by the Scribe by name Basavaraj S. Hitnalli of Gajendragad and it is duly attested by the witnesses by name Kallappa Sobalagoudra and Muttayya Balikaimath of Kodaganur village. The deceased testator was in sound and disposing state of mind at the time of the execution and attestation of the Will and it is accepted by her. The deceased testator was survived for more than 1 ½ years after the execution of the Will. The relationship of the petitioner with the deceased testator is son of her younger brother. There is no other near relatives to the deceased testator. There are no any previous proceedings either for issue of probate or grant of succession certificate in respect of property left by the deceased testator. There are no legal impediments for grant of probate in respect of the petition property under the Act. So, he prays to allow the petition.

3. After filing the petition, public notice was issued and published in the daily newspaper. No interested persons joined

in the petition to challenge the claim of petitioner as additional successors.

4. In order to prove his case, the petitioner examined himself as PW.1 and got marked documents as per Ex.P1 to Ex.P8 and the petitioner has adduced the evidence of a witness as PW.2.

5. Heard the arguments and perused records of the case.

6. On the basis of the material available on record, the following points arise for consideration;

1) Whether the petitioner is entitled for issuance of Probate of the registered Will dtd.22.02.2021 executed by Late Smt. Shivavva W/o. Shankrappa Hadapad in respect of petition property in favour of him?

2) What order?

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

Point No.1 : In the Affirmative.

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

**REASONS**

8. **Point No.1 :** The petitioner has filed this petition u/s 276 of the Indian Succession Act to issue Probate of the Will

dtd.22.02.2021 executed by the deceased testator in favour of petitioner in respect of petition property.

9. The petitioner filed his affidavit in lieu of the examination-in-chief of PW.1, wherein reiterated the averments of the petition stating that, the deceased testator was residing in his house of and she is the sister of his father and she died on 25.12.2024 and her husband Shankrappa also died and they had no issues. The petition property was possessed by the deceased testator. The deceased testator made up her mind to bequeath the petition property in favour of him out of her love and affection towards him. He was looking after the deceased testator during her life time till hr death. Accordingly, the deceased testator executed a registered Will on 22.02.2021 and it was drafted at the instance of her by the Scribe by name Basavaraj S. Hitnalli of Gajendragad and it is duly attested by the witnesses by name Kallappa Sobalagoudra and Muttayya Balikaimath of Kodaganur village. The deceased testator was in sound and disposing state of mind at the time of the execution and attestation of the Will and it is accepted by her. The deceased testator was survived for more than 1 ½ years after the execution of the Will. The relationship of him with the deceased testator is son of her

younger brother. There is no other near relatives to the deceased testator. There are no any previous proceedings either for issue of probate or grant of succession certificate in respect of property left by the deceased testator. There are no legal impediments for grant of probate in respect of the petition property under the Act.

10. In support of his claim, the petitioner has produced the documents as per Ex.P1 to Ex.P4. The Ex.P1 is the RTC extract bearing Sy.No.167/3 discloses that it is standing in the name of deceased testator. The Ex.P2 is the Original Will dtd.22.02.2021 discloses that, the deceased testator has executed the same before the attesting witnesses in favour of the petitioner with regard to the petition property. The Ex.P3 is the Death certificate discloses that the deceased testator died on 25.12.2024. The Ex.P4 is the Aadhaar card of the petitioner discloses that he is resident of Kodaganur village of Gadag Taluk. The Ex.P5 is the Certified copy of Akar-banda (RTC), the Ex.P6 is the Certified copy of Form No.10, the Ex.P7 is the PT Sheet and the Ex.8 is the Mutation extract in respect of petition property discloses that they are standing in the name of deceased testator.

11. The petitioner examined the attesting witness who is the PW.2 and he deposed in his evidence that, the testator executed the Will dtd.22.02.2021 by bequeathing the petition property in favour of the petitioner in the presence of him and another witness Muttayya Balikaimath and said testator signed it before him and he also signed the same as attester before the deceased testator and it is written by the Scribe -Basavaraj Hitnalli.

12. So, as per sec 2(h) of Hindu Succession Act, Will means the legal declaration of the intention of the testator with respect to his property which they desire to be carried into after his death. In the absence of the Will, the property devolves on the legal heirs in accordance with their personal law.

13. In the ruling reported in **ILR 2008 KAR 2115 (Sri J.T. Surappa And Anr. vs Sri Satchidhanandendra)** his Lordship held regarding the five steps i.e. **“Pancha Padi”** while considering the Will which are as under;

*(a) Whether the Will bears the signature or mark of the testator and is duly attested by two witnesses and whether any attesting witness is examined to prove the Will?*

*(b) Whether the natural heirs have been disinherited? If so, what is the reason?*

*(c) Whether the testator was in a sound state of mind at the time of executing the Will?*

*(d) Whether any suspicious circumstances exist surrounding the execution of the Will?*

*(e) Whether the Will has been executed in accordance with Section 63 of the Indian Succession Act, 1925, read with Section 68 of the Evidence Act?*

14. As held in the ruling, the Ex.P2 -Will is computerized & registered and it is signed by the testator and attested by two witnesses i.e. PW.2 & Muttayya Balikaimath and it is written by the Scribe -Basavaraj Hitnalli. It is specifically stated in the Will that the petitioner is the son of brother of the deceased testator and further it is stated in the Will that the petitioner is looking after the testator with love and affection and hence bequeathed the petition property in favour of him. Moreover, inspite of taking of paper publication, no interested persons joined the proceedings and disputed the claim. Moreover, the petitioner is none other than the son of brother of the testator. The PW.1 & 2 stated in their evidence that the testator was a sound state of mind at the time of executing the Will -Ex.P2. There are no

suspicious circumstance exists surrounding the execution of the Will. The Will is executed according to section 63 of the Indian Succession Act and section 68 of the Indian Evidence Act. The oral evidence of the PW.1 & 2 is sufficiently corroborated with the contents of Ex.P1 to Ex.P8. In the absence of rebuttal evidence and no interested persons joined the petition to challenge the claim of petitioner as additional successors this Court do not find any circumstances to doubt the genuineness of the Will. All the above, the Court has to see whether the Will is executed as per Law. The petitioner has made out his case with acceptable evidence that he was residing with the testator and he is the son of brother of the testator and during her life time she executed the Will by bequeathing the petition property in favour of the petitioner.

15. So, relying on the evidence of PW.1 & 2 and Ex.P1 to Ex.P8, this Court is of the opinion that the petitioner is entitled to get the Probate certificate of the Will executed by deceased testator during her life time and issuing of the same in respect of the petition property. Hence, point No.1 answered in the Affirmative.

16. **Point No.2** : In view of findings on point No.1, this Court proceeds to pass the following;

**ORDER**

The Petition filed by the petitioner filed U/Sec 276 of Indian Succession Act, 1925 is allowed .

Issue Probate certificate of the Will dtd.22.02.2021 executed by deceased Smt. Shivavva W/o. Shankrappa Hadapad in favour of the petitioner in respect of the petition property after collecting the necessary stamp duty.

No order as to costs.

(Dictated to the Stenographer, typed by her on computer, corrected and then pronounced by me in the open court on this 08th day of July, 2026.)

**(NAGAVENI)**  
**Prl. District & Sessions Judge,**  
**Gadag.**

**ANNEXURE**

**LIST OF WITNESSES EXAMINED FOR PETITIONER/S SIDE;**

PW.1 : Shivanandappa S/o. Veerappa Hadapad.  
PW.2 : Kallappa S/o. Basappa Sobalagoudra.

**LIST OF DOCUMENTS EXHIBITED FOR PETITIONER/S SIDE;**

- Ex.P1 : RTC Extract of petition property.  
Ex.P2 : Will dtd.22.02.2021.  
Ex.P2(a) : 2 Signature of PW.2.  
Ex.P2(b) : 2 Signature of Muttayya Balikaimath.  
Ex.P3 : Death certificate of deceased testator.  
Ex.P4 : Aadhaar card of petitioner.  
Ex.P5 : Certified copy of Akar-banda (RTC).  
Ex.P6 : Certified copy of Form No.10.  
Ex.P7 : PT Sheet.  
Ex.P8 : Mutation extract.

**LIST OF WITNESSES EXAMINED & DOCUMENTS EXHIBITED  
FOR RESPONDENT/S SIDE;**

- Nil -

**(NAGAVENI)**  
**Prl. District & Sessions Judge,**  
**Gadag.**