

KAMD010015482026



**IN THE COURT OF IV ADDITIONAL DISTRICT JUDGE,
MANDYA, AT: MANDYA.**

Dated: This the 23rd day of July 2026.

Present:

SRI MADHVESH DABER

B.Com., LL.B. (Spl).

IV Additional District & Sessions Judge
Mandya

P & SC No.18/2026

Petitioner:

- 1] Ms. H.K. Shashirekha,
D/o H.B. Kunnasetty,
Aged about 45 years,
R/at No.27, Basavanapalya,
Basava Residency, Tavarekere,
Bengaluru - 562130.

[R/by Smt. Nalini T, Advocate]

V/s.

Respondent:

Nil.

ORDER

This is a petition U/s.276 of Indian Succession Act,
1925 for grant of Probate in favour of Petitioner by virtue

of Will Deed executed by Testatrix / Kamma on 22.09.2009 in respect of immovable properties item No.1 to 8 mentioned in the schedule of petition.

BRIEF FACTS :

2. That, deceased Kamma is the grand mother of Petitioner. The petitioner submits that, Smt.Kamma married to one Sri.Bolappa and out of their wedlock four sons and five daughters were born. They were Siddamma (died), Doddathammaiah, Chikkathammaiah (died) Chikkathayi, Siddasetty (died), Ganga (died), Gowri (died), Kunnasetty/ father of petitioner (died) and one Madevi. The petition properties belong to Kamma who had derived absolute right, title, interest and possession over the same by paying regular taxes to the authorities till her death. The petition schedule properties were the self—acquired properties of late Kamma. Earlier she executed a registered Will dated 30.12.2004 vide registered document No.33/2004-05 and same was cancelled and later she executed present Will dated 22.09.2009 in favour of petitioner in respect of

immovable properties vide document No.RJN-3-00211/2009-10 dated 23.09.2009. She had executed the Will during her lifetime in the presence of attesting witnesses wherein she has bequeathed the petition schedule properties to the petitioner and she is made as beneficiary of the Will to see that the true desire and intention of Smt. Kamma was to be fulfilled. Further the petitioner was looking after the deceased in her last days. The Testatrix was hale and healthy and she was in sound disposing state of mind at the time of execution of Will. The said registered Will was executed out of her free Will and desire and same was not under any pressure or compulsion. The registered Will was executed by the deceased in the presence of witnesses namely K.L.Manjunath and Muralidhar. Deceased Kamma died on 31.10.2009 and the said Will was the last Will of the Testatrix. Hence, the petitioner prays this court to order for grant of probate order upon the Will deed dated 22.09.2009 executed by petitioner's deceased grand mother Late Kamma by declaring that, the petitioner is

owner of the items No.1 to 8 of the schedule immovable properties as per Will deed dated 22.09.2009. Hence, the Petitioner is entitled to get the properties bequeathed in her favour. Thus, the Petitioner is constrained to file this petition for grant of probate in her favour. Therefore, this petition.

3. After filing of the petition, paper publication was made in Kannada Daily Newspaper 'Hosadigantha' dated 24.04.2026 calling upon interested public to appear and contest the case. In response to the paper publication, nobody appeared.

4. In order to prove her case, the petitioner got examined herself as PW-1 and attesting witness namely K.L.Manjunath is examined as Pw2 and documents Ex.P-1 to P-22 were got exhibited.

5. Heard the arguments.

6. Now the points that arise for my consideration are as under:

1. Whether the Petitioner is entitled for issuance of Probate in respect of Will Deed executed by Kamma on 22.09.2009 bequeathing the petition properties in her favour in the presence of the witnesses?

2. What order?

7. My findings to the above points for consideration are as under:-

1. In the **Affirmative**.

2. As per final order, for the following:

REASONS

8. **Point No.1:** In order to prove her case, the petitioner entered witness box as PW-1 by filing affidavit in lieu of evidence and got exhibited documents Ex.P-1 to P-22. The attesting witness to the Will viz., K.L.Manjunath is examined as PW-2. Since the original Will was reported to be missing, the petitioner filed application under section 57 of BSA 2023 read with section 151 CPC seeking permission to lead secondary evidence. Same was allowed and the petitioner was permitted to lead secondary evidence in respect of Will by producing certified copy of the said Will. Accordingly, the certified

copy of the Will deed is produced at Ex.P-1. The family tree is produced at Ex.P2. Death certificate of Kamma is produced at Ex.P3. RTC extracts are produced at Ex.P4 to Ex.P21 and complaint copy is produced at Ex.P22. The copy of complaint would disclose that, original Will was lost and in this regard, a complaint was registered in Bangalore South Police Station. The RTC extracts would go to reveal that the petition properties are standing in the name of deceased Kamma and she is having right over the said properties.

9. The important document is certified copy of registered Will deed dated 22.09.2009 executed by Kamma which is produced at Ex.P-1. According to Ex.P1, the deceased executed the registered Will Deed and bequeathed petition properties in favour of the Petitioner. The Petitioner has examined the witness to the Will viz., K.L.Manjunath as PW2. He has deposed that deceased Kamma executed the Will deed on 22.09.2009 in his presence out of her free Will in favour of the Petitioner and the Testatrix was in sound state of

mind at the time of execution of the said Will Deed. He has also identified the thumb impression of deceased Kamma and he has identified his signature and signature of another witness Muralidhar. As the certified copy of the Will deed is produced, the said signatures were not exhibited. He deposed that at the time of execution of Will deed, Kamma was in fit state of mind. She was mentally sound and fit at the time of executing the Will.

10. There is nothing on record to disbelieve the evidence of PW-1/petitioner. Admittedly nobody appeared in response to the summons/ Paper Publication issued in the locally circulated Kannada Newspaper "Hosadigantha", dated 24.04.2026. Under such circumstances, the evidence given by petitioner/PW-1 and PW2/K.L.Manjunath is accepted.

11. It is to be noticed that, in **Vincent Britto V/s. Mr. Eunice Britto, AIR 2002 Karnataka 179 and Judgment of Hon'ble High Court of Patna, in Misc.**

Appeal No.247/2011, Sri Rabindra Kumar v/s. Shakuntala Devi and others, it is held that, in Probate proceedings, the petitioner has to prove whether the document put forward as the Will of deceased person was duly executed and attested in accordance with law and whether at the time of such execution, the Testatrix had sound disposition of mind. Similarly, while deciding the Probate petition, the attesting witnesses to the Will are also necessarily to be examined.

12. In this case, the Petitioner has produced the certified copy of Will deed Ex.P-1 allegedly executed by deceased Kamma. The attesting witness to the Will is examined as PW-2. He has deposed regarding the sound state of mind of deceased Kamma at the time of execution of the Will deed. Hence, by examining PW-2, the Petitioner has proved execution of the Will by deceased Kamma. Thus, in my view, there is no impediment for issuance of Probate Certificate in favour of the Petitioner. Hence, the Petitioner is entitled for

Probate as sought in the petition. Accordingly, I answer Point No.1 in the **Affirmative**.

13. **Point No.2**: In view of the aforesaid reasons on Point No.1, I proceed to pass the following:

ORDER

The petition filed by the Petitioner Under section 276 of Indian Succession Act, 1925, is hereby **Allowed**.

Issue Probate in favour of the Petitioner in respect of the registered Will Deed dated 22.09.2009 executed by deceased Testatrix / Kalamma in respect of petition schedule item No1 to 8 properties of Halaguru Village, and Hobli, Malavalli Taluk mentioned in the petition, for administration purpose.

Before issuance of probate certificate, office is directed to collect the required court fee as per law.

[Dictated to the Stenographer directly on the computer. Typed by him. Script corrected and then order pronounced by me in the Open Court on this the 23rd day of July 2026]

(Madhvesh Daber)
IV Additional District Judge,
Mandya

ANNEXURE**List of witnesses examined on behalf of Petitioner**

PW-1: K.H. Shashirekha

PW-2: K.L.Manjunath

List of documents exhibited on behalf of Petitioner

Ex.P1 : Will deed

Ex.P2 : Family tree

Ex.P3 : Death certificate of Kamma

Ex.P4 to 21 : RTC extracts

Ex.P22 : Complaint copy

List of witnesses examined on behalf of Respondent

-Nil-

List of documents exhibited on behalf of Respondent

-Nil-

IV Addl. District Judge,
Mandya

Case called out. Order pronounced in the
Open Court. Vide separate Order.

ORDER

The petition filed by the Petitioner Under
section 276 of Indian Succession Act, 1925, is
hereby **Allowed**.

Issue Probate in favour of the
Petitioner in respect of the registered Will
Deed dated 22.09.2009 executed by
deceased Testatrix / Kalamma in respect of
petition schedule item No1 to 8 properties of
Halaguru Village, and Hobli, Malavalli Taluk
mentioned in the petition, for administration
purpose.

Before issuance of probate certificate,
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IV Addl. Sessions Judge,
Mandya