

KAMD700000212026



**IN THE COURT OF THE
III ADDITIONAL DISTRICT JUDGE,
MANDYA,
[SITTING AT SRIRANGAPATNA].**

Dated this the 22nd day of July, 2026.

PRESENT

Smt. Jyothsna D, LLB, LLM, DFA.
III Addl. District and Sessions Judge, Mandya,
[Sitting at Srirangapatna].

P and SC/5003/2026

- Petitioners : 1. Krishnegowda S/o Late
Shanthe Gowda Aged about 45
years.
2. Harish K.P S/o Puttegowda, Aged
about 35 years.

Both are residents of Agrahala
Beedi, K.R.Pete Town and Taluk,
Mandya District.

By Sri S.D.Dhananjaya, Advocate.

V/s

Respondent: Nil

Date of institution of the : 08.01.2026
petition

Nature of the relief sought in : Probate Certificate
the petition

Date of commencement of : 02.04.2026
recording of evidence

Date on which the Judgment : 22.07.2026
was pronounced.

Total duration : 00 years 06 months 14 days.

ORDER

Invoking Section 276 of Indian Succession Act 1925, the petitioners have filed the present petition seeking for grant of Probate Certificate in their favour in respect of registered WILL dated 05.04.2025 wherein Jayamma W/o Late Shanthegowda executed the petition schedule properties in favour of the petitioners.

2. In brief, the case of the petitioner is as follows;

The testator Jayamma W/o Late Shanthegowda is mother of petitioner No.1 and grand-mother of petitioner No.2. During her life time when she was in a sound disposing state of mind, hale and healthy, executed registered WILL dated 05.04.2025 voluntarily by bequeathing the petition schedule properties in favour of both the petitioners. She died on 07.06.2025. The alleged WILL is her last WILL. During her life time, the petitioners looked after her with due love and care. Hence, she had executed said WILL and bequeathed the petition schedule properties as she was the absolute owner and in possession

of the petition schedule properties. Subsequently, the petitioners approached the Tahasildar, K.R.Pete, for transfer of revenue records in their name. At that time he suggested to bring Probate Certificate in respect of said WILL issued by the competent Court of law. Hence, filed the present petition.

3. In response to newspaper publication which is Ex.P-6 inviting objections from the general public with regard to the petition claim, none appeared to dispute the petition claim. Hence, the petition claim remained unchallenged.

4. To prove the petition claim, petitioner No.2 entered into witness box as PW-1 by filing sworn affidavit of examination-in-chief on behalf of himself and petitioner No.1 wherein all the petition averments have been reiterated.

5. To substantiate the petition claim, he has produced certain documents which are marked at Ex.P-1 to Ex.P-1.

6. To prove due execution of WILL, one Prema and Mamatha who are two witnesses to the WILL entered into the witness box by filing separate sworn affidavit of examination-in-chief as PW-2 and PW-3 respectively.

7. Heard counsel for the petitioners and accordingly, the following points do arise for consideration of this Court;

1. Whether the petitioners prove that the testator by name deceased Jayamma W/o Shanthegowda has the absolute authority over the petition schedule properties to execute WILL dated 05.04.2025 and prove existence of said properties?
2. Whether the petitioners further prove that deceased Jayamma W/o Late Shanthegowda has voluntarily in a sound disposing state of mind, bequeathed the petition schedule properties in favour of the petitioners by way of WILL dated 05.04.2025 and said WILL is her last WILL?
3. What order?

8. The findings of this Court on the above points are as under:

Point No.1 : In the affirmative.

Point No.2 : In the affirmative.

Point No.3 : As per final order, for the following:

REASONS

9. **Points 1 and 2** : Since these points are inter connected to each other, they have been taken together for

discussion in order to avoid repetition of narration of facts and evidence.

10. Admittedly, the present petition is filed by the petitioners seeking grant of Probate Certificate in favour of the petitioners wherein the petition schedule properties are bequeathed in their name by the testator of WILL as narrated above.

11. In the documentary evidence of PW-1, Ex.P-1 is the original WILL dated 05.04.2025 wherein Jayamma W/o Late Shanthegowda executed WILL at the age of 72 years, bequeathing the petition schedule properties in favour of her last son Krishnegowda and her grand-son by name Harish.K.P S/o Puttegowda in respect of the petition schedule properties. In this document it is recited that she had executed said WILL voluntarily when she was hale and healthy and in a sound disposing state of mind. To avoid litigation in future she had executed said WILL. It is stated in the said document that already partition took place between herself and her children and the petition schedule properties are her absolute properties acquired under the said partition.

12. Further, Ex.P-2 is death certificate of Jayamma dated 07.06.2025 which shows that her husband's name as Shanthegowda and she is the daughter of Late Kempamma and Late Kuntegowda. As per this document, as on her date of death, her place of death and permanent address is K.R.Pete, Agrahara Beedi, Mandya District, which is within the jurisdiction of this Court. Hence, there is no impediment to entertain this petition.

13. Ex.P-3 is the RTC pertaining to Sy.No.291/1 of K.R.Pete Village, which shows the properties in said survey number are in the name of Jayamma W/o Shanthegowda . Survey number of this document corresponds with the properties bequeathed under Ex.P-1. Ex.P-4 is the MR register extract which shows that after death of Shanthegowda, the revenue records such as RTC entered in the name of his wife Jayamma. These documents establishes the existence of petition schedule property and the authority of Jayamma to execute a WILL.

14. Ex.P-5 is the document of present market value of the petition schedule properties, which supports the office of the Court to calculate the Court fee.

15. Ex.P-6 is the newspaper publication published in Hosadigantha, Kannada daily newspaper dated 23.01.2026, which shows that none appeared after public notice in newspaper publication which establishes the fact that Ex.P-1 is the last WILL of Jayamma and there is no objection from anybody for grant of Probate Certificate.

16. Ex.P-8 is the order of the Civil Judge [Jr.Dn.] and JMFC, K.R.Pete, in O.S.No.118 of 2007 wherein the petition schedule properties were allotted to the share of deceased Jayamma as per compromise petition filed under Order XXIII Rule 3 CPC. As per above documentary evidence it is clear that deceased Jayamma during her life time acquired the petition schedule properties through partition entered into under compromise petition in O.S.No.118 of 2007. During her life time when she was hale and healthy and in a sound disposing state of mind, executed Ex.P-1 voluntarily through which she bequeathed the petition schedule properties in favour of petitioners 1 and 2.

17. To prove due execution of said WILL as required under Section 63 of Indian Succession Act and Section 67 and 68 of the Bharatiya Sakshaya Adhinyam, two witnesses to the WILL by name Prema and Mamatha

entered into the witness box by filing separate sworn affidavits of examination-in-chief as PW-2 and 3 respectively. In their chief examination affidavit they have stated similar averments such as they have affixed their signatures as witnesses to the WILL executed by Jayamma who is mother of petitioner No.1 and grand-mother of petitioner No.2. They have identified their signatures in Ex.P-1 which are marked as Ex.P-1[a] to Ex.P-1[d].

18. Further, Ex.P-7 is the notarized Genealogical Tree of Shanthegowda and Jayamma dated 22.04.2026 which shows that petitioner No.1 is one of the sons of Jayamma and Shanthegowda. The petitioner No.2 is son of Anasuya one of the daughters of the testator. There are other legal heirs to the testator of the WILL. Ex.P-11 is the death certificate of one Kanthamma dated 29.05.2021, which shows that her mother's name is Jayamma, father's name is Shanthegowda and her husband's name is L.T.Manjegowda. As per Ex.P-9 the plaint in O.S.No.118 of 2007 she is defendant No.6 wherein her name is mentioned as Shanthamma. It is submitted by learned Counsel for the petitioners that she predeceased Jayamma. Though the legal heirs shown in family tree are not arrayed as parties to this petition, they did not appear even after newspaper

publication gives presumption under Section 111 of Bharatheeya Sakshya Adiniyama [equivalent Section 114 of Indian Evidence Act] that the petition claim is unchallenged one.

19. As per the facts and circumstances of the case and above discussions, it is clear that the petitioners have established their petition claim and Ex.P-1 is proved through PW-2 and PW-3. Hence, this Court has no impediment to grant Probate Certificate in respect of the WILL / Ex.P-1 in favour of the petitioners. As such points 1 and 2 raised by this Court for consideration is hereby answered in the affirmative.

20. **Point No.3 :** In view of the above findings and discussion on points 1 and 2, this Court is of the considered opinion that the above petition is deserved to be allowed and in result this Court proceeds to pass the following;

ORDER

The petition filed by the petitioners under Section 276 of Indian Succession Act, is hereby allowed.

Issue 'PROBATE' in favour of petitioners in respect of the WILL dated 05.04.2025

executed by deceased Jayamma W/o Shanthegowda, in respect of the petition schedule properties to administrate the terms of the WILL along with certified copy of the WILL dated 05.04.2025 under the seal of this Court in the terms set forth in Schedule-VII of Indian Succession Act, 1925 after collecting necessary Court fee and indemnity bond with one surety from the petitioners.

The office is hereby directed to return all the original documents except Ex.P-1 marked as exhibits to the petitioners after taking the fresh certified copies of the same with proper identification as per law.

[Dictated to the Stenographer Grade-I directly on computer, typescript corrected and then pronounced by me in open Court on this the 22nd day of July, 2026]

[Jyothsna D]

III Additional District Judge,
Mandya, [Sitting at Srirangapatna].

Annexure

List of witnesses examined on behalf of the petitioner :

PW-1	Harisha
PW-2	Prema
PW-3	Mamatha

List of witnesses examined on behalf of the respondent :

Nil

List of documents marked on behalf of the petitioner :

Ex.P-1	Original WILL
Ex.P-1[a]	Signature of PW-2
Ex.P-1[b]	Signature of PW-2
Ex.P-1[c]	Signature of PW-3
Ex.P-1[d]	Signature of PW-3
Ex.P-2	Death certificate
Ex.P-3	Pahani
Ex.P-4	M.R. register
Ex.P-5	Assessment
Ex.P-6	Paper publication
Ex.P-7	Notarized Genealogical Tree
Ex.P-8	Certified copy of order sheet
Ex.P-9	Certified copy of plaint
Ex.P-10	Certified copy of application under Section 3 CPC.

Ex.P-11 Death certificate

List of documents marked on behalf of the respondent :

Nil

[Jyothsna D]
III Additional District Judge,
Mandya, [Sitting at Srirangapatna].