

KAMD700004682025



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

Dated this the 7th day of July 2026.

PRESENT

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

P and SC/5032/2025

Petitioner : Bhyrava S/o Javaregowda, Aged
about 13 years, Represented by
guardian / Javaregowda / father,
Residing at Sugganahalli Village,
Kasaba Hobli, Srirangapatna
Taluk, Mandya District.

By Sri Shankara, Advocate.

V/s

Respondent: Nil

Date of institution of the : 24.07.2025
petition

Nature of the relief sought in : Probate Certificate
the petition

Date of commencement of : 28.11.2025
recording of evidence

Date on which the Judgment : 07.07.2026
was pronounced.

Total duration : 00 years 11 months 14 days.

ORDER

Invoking Section 276 of Indian Succession Act, 1925, the petitioner has filed the present petition seeking grant of Probate Certificate in respect of registered WILL dated 13.02.2023 executed by deceased Mayigowda @ Paregowda in respect of the petition schedule properties.

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

The petitioner is the grand-son of Mayigowda @ Paregowda S/o Late Mayigowda. The petition schedule properties are allotted to the share of Mayigowda @ Paregowda through the Judgment in O.S.No.15 of 2012 on the file of Senior Civil Judge and JMFC, Srirangapatna and accordingly, he became the absolute owner in possession of the said properties and he handed over absolute right to execute said properties. Accordingly, on 13.02.2023 he executed WILL in favour of the petitioner in respect of petition schedule properties to avoid complications and future litigation. On 21.02.2023 he died leaving behind said WILL as his last WILL. Subsequently, the petitioner approached the concerned Tahasildar of Srirangapatna Taluk for transfer of khatha in his name. At that time he suggested the petitioner to bring Probate Certificate in respect of said

WILL issued by the competent Court of law. Hence, filed the present petition.

3. There is no respondents and counsel for the petitioner public public notice inviting objections from the general public regarding the petition claim through newspaper publication in Vijayavani, Kannada Daily newspaper dated 16.08.2025 as per Ex.P-6, but none appeared to dispute the petition claim. Hence, the same remained unchallenged.

4. To prove the petition claim, the petitioner himself entered into witness box and got examined by filing sworn affidavit of examination-in-chief as PW-1 under which all the petition averments are reiterated.

5. To substantiate his claim, he has produced certain documents which are marked as Ex.P-1 to 8.

6. To prove the alleged WILL as required under Section 63 of Indian Succession Act and Section 67 and 68 of the Bharathiya Sakshya Adiniyama, the two witnesses to the WILL by name Puttaswamy Gowda and Ramanna summoned by the petitioner and they got examined by oath as PW-2 and 3 respectively by filing separate sworn affidavits of examination-in-chief.

7. Heard counsel for the petitioner and perused the materials placed on record. Accordingly, the following points do arise for consideration of this Court;

1. Whether the petitioners prove that the testator by name deceased Mayigowda @ Paregowda S/o Late Mayigowda has the absolute authority over the petition schedule property to execute WILL dated 13.02.2023 and prove existence of said properties?
2. Whether the petitioner further proves that Late Mayigowda @ Paregowda S/o Mayigowda has voluntarily in a sound disposing state of mind, bequeathed the petition schedule property in favour of the petitioner by way of WILL dated 13.02.2023 and said WILL is his last WILL?
3. What order?

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

Point No.1 : In the negative

Point No.2 : In the negative

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 grand-son of the Executor of the alleged WILL filed the present petition for grant of Probate Certificate as instigated by the concerned Tahasildar for the purpose of transfer of khatha in respect of the petition schedule property in his name. As the petitioner is a minor, the petition is filed by his father as his natural guardian. PW-1 is the father/natural guardian of petitioner.

11. In the documentary evidence of PW-1, Ex.P-1 is the original WILL dated 13.02.2023 executed by Mayigowda @ Paregowda S/o Mayigowda in respect of the petition schedule properties. The recitals of this document in brief is the testator acquired the schedule property as per share allotted to him in compromise decree as per compromise petition in O.S.No.15 of 2012 on the file of learned Senior Civil Judge Srirangapatna. The testator had 5 children. He allotted shares to 3 daughters and a son. As the father of this petitioner by name Javaregowda who is 5th son

of testator taking care and expenses of testator, hence voluntarily executed WILL in favour of son of Javaregowda who is his grandson by name Bhairava aged about 11 years. In Ex.P-1 itself it is mentioned as petitioner is minor and represented by his father Javaregowda who is PW-1. As on the date of execution of WILL, the petitioner is 11 years old. This petition is filed in the year 2025. Further, it is admitted fact that petitioner is a minor. Now, the question of law is whether probate certificate is issued in favour of a minor either through natural guardian?

12. Ex.P-2 is the final decree drawn in O.S.No.15 of 2012 by the Principal Senior Civil Judge and JMFC, under which the petition schedule properties were allotted to the share of said Mayigowda @ Paregowda. Ex.P-5 is the RTC pertaining to property in Sy.No.42/1 in Sugganahalli Village, which is in the name of Mayigowda @ Paregowda to the extent of 1 acre of land which came to his possession as per partition dated 08.05.2007 under MR No.69/2006-07. As per these document it is established that the petition schedule property is in existence and the testator has authority to execute a WILL.

13. Ex.P-3 is Aadhaar Card of PW-1 which shows that he is son of Mayigowda @ Paregowda. Ex.P-4 is Aadhaar Card of the petitioner which shows that he is son of Javaregowda and his date of birth is 13.04.2012 which makes clear that the petitioner is still a minor which is undisputed fact as discussed supra.

14. Ex.P-6 is the death certificate of Mayigowda @ Paregowda, which shows that at the time of date of death his permanent address is Sugganahallivll, Srirangapatna Taluk, which is within the jurisdiction of this Court.

15. Ex.P-7 is the newspaper publication published in Vijayavani Kannada daily newspaper dated 16.08.2025, in response to which none appeared to dispute petition claim, which gives presumption under Section 111 of Bharatheeya Sakshya Adiniyama (equivalent Section 114 of Indian Evidence Act) as Ex.P-1 is last WILL of testator.

16. Ex.P-8 is the notarized Genealogical Tree of Mayigowda @ Paregowda which shows that he has five children and one of them is Javaregowda. Ex.P-9 is the certified copy of order sheet in O.S.No.15 of 2012. Ex.P-10 is the compromise petition filed by the parties in O.S.No.15 of 2012 under Order XXIII Rule 3 CPC. Though, these

documents shows other legal heirs of testator and they are not arrayed as parties here. But, it will not effect the petition claim as they did not appear after newspaper publication.

17. Further, two witnesses to the WILL / Ex.P-1 by name Puttaswamy and Ramanna are examined as PW-2 and 3 respectively and they have identified their signatures in Ex.P-1 / WILL. These evidence show that, PW-1 has complied requirements of law to prove the due execution of WILL.

18. Though the petitioner through his natural guardian made every effort to prove his claim as required under Section 63 of the Indian Succession Act and Section 67 and 68 of the Bharatiya Sakshaya Adhinyam by bringing the witnesses to the witness box. But, as per law, this petition is not maintainable. Section 223 of the Indian Succession Act is very clear that Probate shall not be granted to a minor. It is evident as pre Ex.P-1 that the WILL is executed in favour of the minor and till date he has not attained majority. Further, for transfer of revenue records as per law, Probate is not necessary. To make it more clear sec 223 of the Indian Succession Act is reproduced as here under;

“223. Persons to whom probate cannot be granted - Probate cannot be granted to any person who is a minor or is of unsound mind nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made by notification in the Official Gazette, by the State Government, in this behalf”.

19. Therefore, as per facts and circumstances and of the case and above discussions, it is clear that this presentation is not maintainable. Hence, point Nos.1 and 2 are answered in the negative.

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 liable to be dismissed and in result this Court proceeds to pass the following;

ORDER

The petition filed by the petitioner under Section 276 of Indian Succession Act, is dismissed.

[Dictated to the Stenographer Grade-I directly on computer, typescript corrected and then pronounced by me in open Court on this the 7th 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	Javaregowda
PW-2	Puttaswamygowda
PW-3	Ramanna

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 identified by witness
Ex.P-2	Copy of Judgment
Ex.P-3	Aadhaar Card
Ex.P-4	Certified copy of Aadhaar Card
Ex.P-5	Pahani pathra
Ex.P-6	Death certificate
Ex.P-7	Paper publication
Ex.P-8	Notarized Genealogical Tree
Ex.P-9	Certified copy of order sheet
Ex.P-10	Certified copy of amended compromise petition.

List of documents marked on behalf of the respondent :

Nil

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