

KAMD700004302025



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

Dated this the 15th day of July, 2026.

PRESENT

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

P and SC/5027/2025

Petitioner : H.R.Ranganatha S/o Late
H.T.Rangaswamy Shetty, Aged
about 76 years, Hosaholalu
Village, Kasaba Hobli, K.R.Pete
Taluk, Mandya District.

By Sri C.M.Shivashankarappa, Advocate.

V/s

Respondent: Nil

Date of institution of the : 11.07.2025
petition

Nature of the relief sought in : Probate Certificate
the petition

Date of commencement of : 12.12.2025
recording of evidence

Date on which the Judgment : 15.07.2026
was pronounced.

Total duration : 01 years 00 months 04 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 29.12.1992 executed by Parvathamma W/o Late H.T.Rangaswamy of Hosaholalu Village, Kasaba Hobli, K.R.Pete Taluk, Mandya District.

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

The petition schedule property was acquired by testator by name Parvathamma through Panchayath Palu Patti. After said acquisition of property, she was the absolute owner and in possession over the share allotted to her. During her life time, on 29.12.1992 the testator voluntarily has executed WILL pertaining to the petition schedule property in favour of her son who is the petitioner herein. She died on 12.09.2005. When the petitioner approached the Tahasildar, K.R.Pete Taluk, for transfer of khatha to his name, the concerned authorities directed him to bring Probate Certificate issued from the competent Court of law. As such present petitioner filed this petition.

3. In response to newspaper publication in Vishwavani, Kannada Daily newspaper dated 26.07.2025,

none appeared before the Court to dispute the petition claim. Hence, this petition remained unchallenged.

4. To prove the petition claim, the petitioner himself entered into witness box by filing sworn affidavit of examination-in-chief as PW-1 under which all petition averments are reiterated. To substantiate petition claim he got marked certain documents as per Ex.P-1 to 9.

5. To prove the WILL as required under Section 63 of the Indian Succession Act and Section 67 and 68 of the Bharatiya Sakshaya Adhinyam, two attesting witnesses to the WILL entered into witness box as PW-2 and PW-3.

6. Heard counsel for the petitioner. 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 Parvathamma W/o Late H.T.Rangaswamy has the absolute authority over the petition schedule property to execute WILL dated 29.12.1992 and prove existence of said property?
2. Whether the petitioner further proves that deceased Parvathamma W/o Late

H.T.Rangaswamy has voluntarily in a sound disposing state of mind, bequeathed the petition schedule property in favour of the petitioner by way of WILL dated 29.12.1992 and said WILL is her last WILL?

3. What order?

7. 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

8. **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.

9. Admittedly, the present petition is filed by the petitioner who is son of the testator by name Parvathamma W/o Late H.T.Rangaswamy Shetty who executed the WILL dated 29.12.1992 in favour of the petitioner wherein the petition schedule property is bequeathed voluntarily by her in his favour.

10. Among the documentary evidence of PW-1, Ex.P-1 is the notarized Genealogical Tree of H.T.Rangaswamy Shetty and Parvathamma dated 19.02.2025 which shows that there are other legal representatives to H.T.Rangaswamy Shetty and Parvathamma other than the present petitioner. But, the petitioner has not arrayed them as parties the petition, which shows the material suppression in the petition.

11. Ex.P-2 is the original WILL executed by Parvathamma W/o Late H.T.Rangaswamy Shetty of Hosaholalu Village, Kasaba Hobli, K.R.Pete Taluk, Mandya District dated 29.12.1992. In this document it is stated that on 25.10.1991 there was a partition executed among herself and her children vide Panchayath Palu Patti. The property mentioned in the WILL is allotted to her share and it is stated that said property is in her possession as absolute owner. It is also stated that the revenue records are standing in her name. Further, even in the petition it is stated that the revenue records were standing in the name of the testator and when the petitioner approached the Tahasildar, K.R.Pete Taluk, he was directed by the Tahasildar, K.R.Pete, to bring Probate Certificate in respect of the WILL. As such, the petitioner has produced the revenue records wherein Ex.P-4

is the mutation register extract dated 07.11.2017, which shows that property in Sy.No.55/1 to the extent of 11 guntas entered in the name of Parvathamma W/o H.T.Rangaswamy Shetty. But, RTC i.e., Ex.P-5 pertaining to Sy.No.55/13 of Hosaholalu Village, there is no mention of testator's name in the said document. There is no supporting RTC pertaining to Ex.P-4 even. The MR No. in Ex.P-4 is T23. MR number in column No.10 of Ex.P-5 is T119/2023-24. In the petition it is stated that the petition schedule property was allotted to the share of Parvathamma as per partition deed dated 25.10.1991. But, in Ex.P-5 column No.10 shows that partition took place on 21.11.2023. Further, in Ex.P-4 there is no mention of partition deed dated 25.10.1991. Counsel for the petitioner has produced notarized copy of partition deed dated 29.10.1991, which is marked as Ex.P-6[a]. In support of Ex.P-6[a] he has produced the certificate dated 08.01.2026 issued by the Indian Overseas Bank, K.R.Pete Branch, wherein the Manager of said Bank has certified that no loan from their Bank has been sanction in favour of H.R.Ranganatha S/o H.T.Rangaswamy Shetty. In this document the residential address of H.R.Ranganatha is shown as /552 SLN, Temple Street, Hosaholalu, K.R.Pete, Mandya 571 426. But, this address is not mentioned in the

cause title to the petition. In the same document it is stated that H.R.Ranganatha had applied for loan during 2015, but he has not availed any loan from said Bank. This certificate shows that the Bank is not having any original partition deed pertaining to the petitioner or his father in its custody. Though Ex.P-4 contains name of Parvathamma pertaining to property in Sy.No.55/1, but there is no cogent document to show her capacity to execute WILL in respect of the petition schedule property. The RTC produced by the petitioner is pertaining to some other property. Further, Ex.P-6[a] which is notarized copy of partition deed shall not be considered as secondary evidence as there is no supporting evidence to consider it as secondary evidence as provided under law. Ex.P-7 is the Aadhaar Card of the petitioner. Ex.P-8 and 9 are the Aadhaar Cards of PW-2 and 3 respectively. Though the witnesses to WILL by name H.G.Mallesha and Subba Shetty entered into witness box as PW-2 and 3 by filing their sworn affidavit of examination-in-chief wherein they have affirmed that the testator had executed Ex.P-2 in their presence. But, the petitioner has failed to prove as to on what basis the testator is having authority to exhibit Ex.P-2. As per the historical Judgment of Hon'ble Apex Court in H. Venkatachala Iyenger vs B N Thimmajamma (AIR 1959 SC

443), the Hon'ble Apex Court gave the guidelines to prove the WILL as provided under Section 63 of the Indian Succession Act and Section 68 and 69 of the Indian Evidence Act by producing cogent documents. But, the petitioner has failed to establish the same. Though it is well settled principle of law that for the relief of Probate Certificate under Indian Succession Act, the absolute right and title over the property shall not be strictly construed, but the existence and identification of the same is required. Further, the suspicious circumstances if any in respect of execution of WILL shall be removed by the petitioner by giving strict proof of documentary evidence. Absence of respondents or objectors is not the only criteria to grant probate certificate. The petitioner has failed to establish the same.

12. Furthermore, in the petition and Ex.P-2 it is stated that the revenue records are standing in the name of deceased Parvathamma. But, the petitioner has produced only Ex.P-4. The RTC which is entered in the name of Parvathamma has not been produced. Added to this, there is material suppression in the petition with regard the legal heirs of deceased Parvathamma. If the petitioner relied upon the notarized copy of the alleged Panchayath Palu Patti

wherein it is alleged that Parvathamma and her children entered into Panchayath Palu Patti, he ought to have made other legal representatives or who are all the parties in Panchayath Palu Patti as respondents herein in this case for come to the right conclusion without any ambiguity. Therefore, as per the facts and circumstances of the case on hand and discussions as has been made above, the petitioner has failed to establish the petition claim though there are no respondents in the petition. Hence, point Nos.1 and 2 are answered in the negative.

13. **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 15th 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	Ranganatha
PW-2	Mallesh
PW-3	Subbashetty

List of witnesses examined on behalf of the respondent :

Nil

List of documents marked on behalf of the petitioner :

Ex.P-1	Notarized Genealogical Tree
Ex.P-2	Original WILL
Ex.P-2[a]	Signature of PW-2
Ex.P-2[b]	Signature identified by PW-2
Ex.P-2[c]	Signature of PW-3
Ex.P-3	Death certificate
Ex.P-4	MR register extract
Ex.P-5	Pahani pathra
Ex.P-6	Certificate
Ex.P-6[a]	Notarized palu patti
Ex.P-7	Aadhaar Card
Ex.P-8	Certified copy of Aadhaar Card
Ex.P-9	Notarized Aadhaar Card

List of documents marked on behalf of the respondent :

Nil

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