



**IN THE COURT OF THE II ADDITIONAL
DISTRICT AND SESSIONS JUDGE, MYSURU**

Dated this the 23rd day of June, 2026

:: PRESENT ::

Sri. Mohan Badagandi,

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

**II Addl. District & Sessions Judge,
Mysuru.**

P and SC/45/2025

PETITIONER

**: Smt. Nagamma,
W/o. Somannabhovi,
Aged about 45 years,
R/at. Venkatachalapura village,
Hullahalli Hobli,
Nanjangud Taluk,
Mysuru District.**

(By : Sri. D.R.M., - Adv.,)

-Vs-

RESPONDENT:

NIL

:: ORDERS ::

The Petitioner has filed this petition under
Section 372 of Indian Succession Act, seeking an

order of granting Probate Certificate in respect of the property shown in the petition in her favour.

2. Brief facts of the Petitioner case are as under;

The Petitioner is the daughter of deceased Ramamma W/o. late Venkataswamybhovi, the petition schedule property is the self acquired property of deceased Ramamma W/o. late Venkataswamybhovi vide khata No.377, M.R.No.22-2002-03 and she was in possession and enjoyment of the schedule property till her death. The Petitioner took care of her mother in her old age and she did the funeral ceremonies as well. Ramamma died on 21.10.2024 leaving behind her daughter i.e. Petitioner as her legal heir. The mother of the Petitioner has executed a registered WILL in the name of Petitioner on 30.09.2024 in respect of the petition schedule property bequeathing the schedule property to the Petitioner. Further, the WILL has been

executed when Ramamma was hale and healthy and in the sound disposing state of mind. After the death of Ramamma the Petitioner became the absolute owner in possession of the schedule property on the basis of the WILL. Therefore, the Petitioner has filed present petition seeking to issue Probate for the Will dated 30.09.2024 in her favour.

3. After issuing vide publication in `Rajya Dharma` daily news paper dated 09.12.2025 no such Respondent appear in this case.

4. The Petitioner to prove the case, examined herself as PW.1 and examined two more witnesses as PW.2 and 3 and got marked 3 documents as per Ex.P.1 to Ex.P.3(c) and closed her side.

5. Heard the argument canvassed by learned counsel for Petitioner and perused the materials on record. This Court has raised the under mentioned points for determination are ;

1. Whether the petition is maintainable for Probate Certificate of Will Deed dated 30.09.2024 executed by Ramamma W/o. late Venkataswamybhovi as claimed in the petition under Section 372 of Indian Succession Act, 1925 ?
2. What Order ?

6. My answer to the above points are :

Point No.1 : In the **Negative,**

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

:: REASONS ::

7. **POINT NO.1:-** The Petitioner has produced the Will Deed dated 30.09.2024 executed by one Ramamma W/o. late Venkataswamybhovi in her favour at Ex.P.3. PW.2 and 3 are the witnesses of Will. PW.1 is the beneficiary of Will. They identified the original Will and LTM of the deceased Smt. Ramamma in the Will.

8. On perusal of Ex.P.3, it goes to show that the same has been attested by PW.2 and 3 and PW.2 and 3 identified the LTM of Smt.Ramamma as per Ex.P.3(a). PW.2 and 3 are examined to show that Will Deed at Ex.P.3 has been attested by them and they have stated in their affidavits that Smt.Ramamma bequeathed the petition schedule property in the name of Nagamma, W/o. Somannabhovi and executed Will Deed Ex.P.3 to said Nagamma who has taken care of the deceased till her last breath. So, out of love and affection, she executed Ex.P.3 Will Deed in favour of Petitioner.

9. The learned counsel appearing for Petitioner argued that Ex.P.3 reveals that it was duly registered before the Sub-Registrar, Nanjangud and one H.N.Malleshaiah drafted the same. After draft of Ex.P.3, the attestors and deceased Smt.Ramamma signed on the same in their presence, after accepting the contents of Will Deed as true and correct. The

scribe signed on it, PW.2 and 3 have signed on it as witnesses.

10. Without touching the materials on record it is worth to mention that the petition is filed under Section 372 of Indian Succession Act. Hence, it is proper to re-produce the Section 370 and 372 of Indian Succession Act, 1925 which reads as follows ;

Section 370 ; Restriction on grant of certificates under this Part.-(1) A succession certificate (hereinafter in this Part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by section 212 or section 213 to be established by letters of administration or probate:

Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under this Act.

(2) For the purposes of this Part, "security" means-

(a) any promissory note, debenture, stock or other security of the Central Government or of a State Government;

(b) any bond, debenture, or annuity charged by Act of Parliament 1*[of the United Kingdom] on the revenues of India;

(c) any stock or debenture of, or share in, a company or other incorporated institution;

(d) any debenture or other security for money issued by, or on behalf of, a local authority;

(e) any other security which the 2*[State Government] may, by notification in the Official Gazette, declare to be a security for the purposes of this Part.

Section 372 : Application for certificate.- (1) Application for such a certificate shall be made to the District Judge by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure, 1908, (5 of 1908.) for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:-

(a) the time of the death of the deceased;

(b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Judge to whom the application is made, then the property of the deceased within those limits;

(c) the family or other near relatives of the deceased and their respective residences;

(d) the right in which the petitioner claims;

(e) the absence of any impediment under section 370 or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and

(f) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be deemed to have committed an offence under section 198 of the Indian Penal Code. (45 of 1860.)

1*[(3) Application for such a certificate may be made in respect of any debt or debts due to the deceased creditor or in respect of portions thereof.]

Emphases supplied.

11. The bare reading of the above provisions of law would clearly establish that the petition under Section 372 of Indian Succession Act is for the Succession Certificate for debts, deposits or securities i.e., only for movable properties or actionable claims. The materials on record would go to show that there is no movable properties in the case and securities as well. The petition is filed in respect of the schedule

property which is the landed property. So, the Succession Certificate cannot be issued for immovable or probate certificate cannot be issued under Section 372 of Indian Succession Act.

12. Since no movable property in the case, the exercise of the power vested under Section 372 of Indian Succession Act cannot be exercised for immovable property. The said Section restricts to movable properties only. So, the question of considering the materials on record would not arise for granting letter of probate under Section 372 of Indian Succession Act.

13. Further, Petitioner is only daughter to deceased Ramamma according to genealogy/Ex.P.2 produced by Petitioner. The deceased is genetic mother of the Petitioner. If such is the case, the property left by the deceased definitely goes to the Petitioner by succession. There is no impediment to the Petitioner to get the property by succession. So,

order of dismissal of the petition or allowing the petition do not have impact on the Petitioner. However, the Petitioner is at liberty to file necessary petition for seeking necessary relief under proper provision. Hence, **I answer Point No.1 in the Negative.**

14. **POINT NO.2:-** In view of my findings on the above point, I proceed to pass the following ;

ORDER

The petition filed by the Petitioner under Section 372 of Indian Succession Act is hereby **dismissed**.

[Directly, dictated to the Stenographer on computer, corrected, and signed by me and then pronounced in the Open Court, on this the **23rd day of June, 2026**].

[Mohan Badagandi]
II Addl. District & Sessions Judge,
Mysuru.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF PETITIONER:

PW.1 : Nagamma

PW.2 : Nanjundaswamy

PW.3 : V. Bangara

LIST OF DOCUMENTS MARKED ON BEHALF OF PETITIONER:

Ex.P.1 : Death Certificate of
Ramamma

Ex.P.2 : Affidavit regarding genealogy

Ex.P.3 : Original Will

Ex.P.3[a] : LTM of Ramamma

Ex.P.3[b] : Signature of PW.2

Ex.P.3[c] : Signature of PW.3

[Mohan Badagandi]
II Addl. District & Sessions Judge,
Mysuru.