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**IN THE COURT OF THE III ADDL. DIST & SESSIONS JUDGE,
RAMANAGARA**

PRESENT

**Sri. S.A.Hidayathulla Shariff, B.A.,LL.M.,
III Addl. Dist. & Sessions Judge, Ramanagara**

Dated this the 15th day of July 2026

P & SC No.3/2026

Petitioner: Sri. Keerthy Prasad,
S/o Late Shivanna,
Aged about 45 years,
R/at Udukuntte Village,
Banavadi Post, Soluru Hobli,
Magadi Taluk,
Bangalore South District.

(Reptd. by Sri. V.R., Advocate)

-Vs-

Respondent: N I L

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ORDERS

The petitioner has filed this petition under Sections 232 & 276 of Indian Succession Act, for grant of Probate with respect to execution of registered Will dated

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21.04.2017 by testator H.M. Gangambike, in favour of the petitioner.

2. The case of petitioner in brief is that, he is the nephew of testator H.M. Gangambike. Testator H.M. Gangambike was the wife of Somashekaraiah resident of Udukunte Village, Soluru Hobli, Magadi Taluk, who was working in the Rural Development and Panchayath Raj Department at Tumkuru. Somashekaraiah during his lifetime has acquired the petition schedule land bearing Survey No.48/1 measuring 1 acre 3.8 guntas situated at Mylanahalli Village, Soluru Hobli, Magadi Taluk, along with another property. Somashekaraiah died on 06.12.2005. After the death of Somashekaraiah, his wife H.M. Gangambike succeeded to the suit schedule land. All the revenue documents pertaining to the suit schedule land changed to the name of H.M. Gangambike. As a result of her love and affection towards the petitioner, H.M. Gangambike during her lifetime in sound disposing state of mind has executed a registered Will dated 21.04.2017 in favour of the petitioner by bequeathing the petition schedule land. The registered Will dated 21.04.2017 was the last Will executed by testator. H.M.Gangambike died on 25.01.2024. Petitioner being the

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legatee under the registered Will executed by H.M. Gangambike is entitle for probate with respect to the due execution of the Will.

3. After filing of the petition, public notice of the petition was published in Kannada Daily newspaper by name Hosa Diganta dated 11.02.2026. Even after publishing of public notice pertaining to filing of the present petition, no interested persons appeared before the Court contesting the present petition.

4. In proof of his case, petitioner has got himself examined as PW1 and examined one witness as PW2 and Exs.P1 to P7 documents were tendered in the evidence of petitioner.

5. Heard learned counsel for the petitioner. Perused the materials placed on record.

6. The points that arise for consideration are:

1. Whether the petitioner proves the execution of the registered Will dated 21.04.2017 by testator H.M. Gangambike by bequeathing the petition schedule land in his favour?

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2. Whether the petitioner is entitle for grant of probate with respect to execution of registered Will dated 21.04.2017?
 3. What Order?
7. My findings on the above points are as follows:
Point No.1: In the Affirmative.
Point No.2: In the Affirmative.
Point No.3: As per final Order, for the following:-

:REASONS:

8. **POINT NO.1 & 2:** Since these two points are interconnected with each other, to avoid repetition of facts and findings, these two points are taken up together for consideration.

In proof of his case, petitioner has filed her affidavit by way of his evidence and got himself examined as PW1. PW1 in his evidence has deposed that, he is the nephew of testator H.M. Gangambike. Testator H.M. Gangambike was the wife of Somashekaraiah resident of Udukunte Village, Soluru Hobli, Magadi Taluk, who was working in the Rural Development and Panchayath Raj Department at Tumkuru. Somashekaraiah during his lifetime has acquired the

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petition schedule land bearing Survey No.48/1 measuring 1 acre 3.8 guntas situated at Mylanahalli Village, Soluru Hobli, Magadi Taluk, along with another property. Somashekaraiah died on 06.12.2005. After the death of Somashekaraiah, his wife H.M. Gangambike succeeded to the suit schedule land. All the revenue documents pertaining to the suit schedule land changed to the name of H.M. Gangambike. As a result of her love and affection towards the petitioner, H.M. Gangambike during her lifetime in sound disposing state of mind has executed the registered Will dated 21.04.2017 in favour of the petitioner by bequeathing the petition schedule land. The registered Will dated 21.04.2017 was the last Will executed by testator. H.M.Gangambike died on 25.01.2024. Petitioner being the legatee under the registered Will executed by H.M. Gangambike is entitle for probate with respect to the due execution of the Will.

9. PW1 in his evidence has produced Ex.P1 to P7 documents in evidence. Ex.P1 is the RTC extract with respect to petition schedule land bearing Survey No.48/1 measuring 38.04 guntas situated at Mylanahalli Village for the year 2025-26, wherein testator H.M. Gangambike is

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shown as the Khatedar in possession of the above said land. Ex.P2 is the Mutation Register Extract with respect to petition schedule land, evidenceing change of khata of the petition schedule land from the name of Somashekaraiah to the name of his wife testator H.M. Gangambike on the death of Somashekaraiah. Ex.P3 is the certified copy of the registered Will dated 21.04.2017 shown to have been executed by testator H.M. Gangambike in favour of the petitioner. A perusal of recitals of Ex.P2 registered Will discloses that testator H.M. Gangambike as a result of her love and affection towards the petitioner, who is her relative in sound and disposing state of mind has executed the said Will in presence of two witnesses by name A.V. Manjesha and Gangadaraiah by bequeathing the petition schedule land in favour of the petitioner. Testator H.M. Gangambike shown to have affixed her signatures to all the pages of the Will. Ex.P4 is the Death Certificate of Somashekaraiah, the husband of testator H.M. Gangambike, wherein his date of death is shown as 06.12.2005. Ex.P5 is the Death Certificate of H.M. Gangambike, wherein her date of death is shown as 25.01.2024. Ex.P6 is the Genealogical tree of the family of the testator H.M. Gangambike. Ex.P7 is the true copy of the Aadhar Card of the petitioner.

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10. The Hon'ble High Court of Karnataka, Bengaluru in the decisions rendered in **MFA No.5120/2023 dated 27.09.2023 between K.M.Somaiah Vs. NIL** and in **MFA 4399/2023 dated 01.02.2024 between M.R. Mohankumar and Others Vs. NIL** has held there is no bar to grant probate in respect of a Will in favour of beneficiary of a Will and the bar created under Section 222 of Indian Succession Act will not come in the way of grant of probate with respect to Will in favour of beneficiary.

11. With regard to the acceptance and proof of an unprivileged Will, the Apex Court of the land in a decision reported between **Ramabai Padmakar Paril Vs. Rukminibai Vishnu Vekhande and Others, reported in (2003) & SCC 537** has held that, Section 63 of the Indian Succession Act lays down that the testator shall sign or shall affix his mark to the Will or it shall be signed by some other person in his presence and by his direction. It is further lays down that the Will shall be attested by two or more witnesses, each of whom has seen the testator signing or affixing his mark to the Will or has seen some other person signed the Will, in the presence and on the direction of the testator and each of the witnesses shall sign

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the Will in presence of the testator. Section 68 of the Evidence Act mandates examination of one attesting witness in proof to a Will whether registered or not.

12. In the present case, to prove the execution of Ex.P3 registered Will dated 21.04.2017 by testator H.M. Gangambike in favour of the petitioner, petitioner apart from producing Ex.P3 registered Will has got examined PW2-Gangadhara N.S., as one of the attesting witness of the Will. PW2 has given evidence supporting the case of the petitioner stating that on 21.04.2017 testator H.M. Gangambike in sound disposing state of mind in his presence and in presence of one A.V. Manjesh has executed Ex.P3 registered Will dated 21.04.2017 by bequeathing the petition schedule land in favour of the petitioner. In their presence testator H.M. Gangambike has affixed her signatures to the registered Will. In presence of the testator H.M. Gangambike, himself and A.V.Manjesh have affixed her attesting signatures to the Will.

13. PW2 in his evidence has identified the signature of testator H.M.Gangambike found on Ex.P3 Will as Ex.P3(a). PW2 in his evidence has identified Ex.P3(b) as his attesting signature found on the Will.

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14. By going through the contents of Ex.P3 registered Will dated 21.04.2017 and by considering the evidence of petitioner and PW2- Gangadhara N.S., one of the attesting witness of the registered Will, this Court is of the opinion that petitioner has proved execution of Ex.P3 registered Will dated 21.04.2017 by testator H.M.Gangambike in his favour by bequeathing the petition schedule land as required under Sec.68 of the Evidence Act.

15. In the present case in response to the publication of public notice with regard to filing of the present petition, no interested persons appeared before the Court by contesting the present petition. On the other hand, petitioner has proved execution of Ex.P3 registered Will dated 21.04.2017 by testator H.M.Gangambike in his favour by bequeathing the petition schedule land and also proved the death of testator H.M. Gangambike on 25.01.2024. Under these circumstances, this Court is of the opinion that petitioner has made out grounds to issue probate under the provisions of Indian Succession Act with respect to execution of registered Will dated 21.04.2017 by testator H.M. Gangambike in favour of the petitioner. With these observations, I answer point No.1 and 2 in the Affirmative.

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16. **Point No.3**:- In view of my findings and point number 1 and 2 in the Affirmative and the reasons assigned thereon, I proceed to pass the following: -

:ORDER:

The petition filed by the petitioner under Sections 232 & 276 of Indian Succession Act is allowed.

Office is directed to issue probate with respect to the execution of the registered Will dated 21.04.2017 executed by testator H.M. Gangambike in favour of the petitioner with respect to petition schedule lands, as per law.

Office to issue probate in accordance with the provisions of Indian Succession Act, after collecting the necessary Court Fee.

(Dictated to the Stenographer Grade-I, transcribed by her, corrected by me and then pronounced in the open Court on this the 15th day of July, 2026.)

(S.A.Hidayathulla Shariff)
III Addl. District & Sessions Judge,
Ramanagara.

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**:ANNEXURES:**

List of witnesses examined for the petitioner:-

- P.W.1 : Sri. Keerthy Prasad.
P.W.2 : Sri. Gangadhara N.S.

List of exhibits marked for the petitioner :-

- Ex.P.1 : RTC.
Ex.P.2 : Mutation Register Extract.
Ex.P.3 : Registered Will dated 21.04.2017.
Ex.P3(a) : Signature of H.M.Gangambike.
Ex.P3(b) : Signature of N.S.Gangadhara.
Ex.P.4 : Death Certificate of Somashekaraiah.
Ex.P.5 : Death Certificate of H.M.Gangambike.
Ex.P.6 : Genealogical Tree.
Ex.P.7 : Notarized Adhar Card of Petitioner.

(S.A.Hidayathulla Shariff)
III Addl. District & Sessions Judge,
Ramanagara.