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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 28th day of July 2026

P & SC No.33/2024

Petitioner:

Sri. C.V. Lokesha,
S/o. Late S.N. Veerupakshaiah,
Aged about 62 years,
R/at Kannasandra Village,
Solur Hobli, Magadi Taluk,
Ramanagara District.
And also R/at D.No.2138/A,
Yashas Nilaya, Ramesh Road,
Prashanath Nagar, T. Dasarahalli,
Bengaluru- 57.

(Reptd. by Sri. M.M., Advocate)

-Vs-

Respondent:

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ORDERS

The petitioner has filed this petition under Section 276 of Indian Succession Act, to grant Probate with respect to execution of registered Will dated 31.08.2020 by testator Parvathamma in favour of the petitioner.

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2. The case of petitioner in brief is that, he is the son of the testator Smt.Parvathamma and S.N.Virupakshaiah. The petition schedule properties are the self-acquired properties of Smt.Parvathamma. Smt.Parvathamma during her life time as a result of her love and affection towards the petitioner and her another son by name K.V.Mohan Kumar, in sound disposing state of mind has executed a registered Will dated 31.08.2020 by bequeathing the petition schedule properties in favour of the petitioner. The registered Will dated 31.08.2020 was the last Will executed by Testator Smt.Parvathamma. The testator Parvathamma died on 12.10.2023. After the death of testator Parvathamma, the petitioner approached the revenue authorities for change of Khatha of the petition schedule properties belonging to testator Smt. Parvathamma. The revenue authorities have issued endorsement dated 23.05.2024 directing to get probate with regard to the execution of the registered Will by testator Smt.Parvathamma.

3. After filing of the petition, public notice of filing of the petition was published in Kannada Daily Newspaper by name Vijaya Karnataka dated 20.09.2024. 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, the petitioner got himself examined as PW.1 and has examined two witnesses as

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PW.2 & 3. Ex.P1 to P9 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 registered Will dated 31.08.2020 by testator Parvathamma bequeathing the petition schedule properties in his favour?**

2. **Whether the petitioner is entitle for grant of probate with respect to execution of registered Will dated 31.08.2020?**

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.

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9. In proof of his case, petitioner has filed his affidavit by way of his evidence and got himself examined as PW.1. PW.1 in his evidence has deposed that, he is the son of the testator Smt.Parvathamma and S.N. Virupakshaiah. The petition schedule properties are the self-acquired properties of Smt.Parvathamma. Smt.Parvathamma during her life time as a result of her love and affection towards the petitioner and her another son by name K.V.Mohan Kumar, in sound disposing state of mind has executed a registered Will dated 31.08.2020 by bequeathing the petition schedule properties in favour of the petitioner. The registered Will dated 31.08.2020 was the last Will executed by Testator Smt.Parvathamma. The testator Parvathamma died on 12.10.2023. After the death of testator Parvathamma, the petitioner approached the revenue authorities for change of Khatha of the petition schedule properties belonging to testator Smt. Parvathamma. The revenue authorities have issued endorsement dated 23.05.2024 directing to get probate with regard to the execution of the registered Will by testator Smt.Parvathamma.

10. PW-1 in his evidence has produced Ex.P1 to 9 documents. Ex.P1 is the registered Will dated 31.08.2020 said to have been executed by testator Parvathamma in favour of the petitioner and one Mohan Kumar K.V., the

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brother of the petitioner. A perusal of recitals of Ex.P1 registered will dated 31.08.2020 discloses that, testator Smt. Parvathamma, as a result of her love and affection towards the petitioner and her another son by name Mohan Kumar K.V. in sound disposing state of mind has executed the said Will in presence of two witnesses by name Dinesh B.G. and Shivraj R. by bequeathing her properties. In Ex.P1 registered Will the petition schedule properties were bequeathed in favour of the petitioner and other properties were bequeathed in favour of K.V Mohan Kumar another son of the testator Smt.Parvathamma. Testator Parvathamma shown to have affixed her LTM to all the pages of the Will and witnesses by name Dinesh B.G. and Shivaraj R. are shown to have affixed their attesting signatures to the Will and one Manjunath S.C., advocate has signed the Will as the scribe of the Will.

11. Ex.P2 is the Death Certificate of Testator Parvathamma, wherein her date of death is shown as 12.10.2023. Ex.P3 is the certified copy of the registered sale dated 20.12.1968 under which, testator Smt. Parvathamma shown to have purchased the petition schedule properties which were bequeathed by her in favour of the petitioner. Ex.P4 to P7 are the RTC Extracts for the year 2024-2025 with respect to petition schedule lands wherein testator Parvathamma is shown as the

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khathedar in possession of the petition schedule lands. Ex.P8 is the demand register extract with respect to Item No.5 of the petition schedule house property wherein testator Parvathamma is shown as the khathedar in possession of the said house property. Ex.P9 is the endorsement dated 23.05.2024 issued by the Tahsildar, Magadi Taluk directing the petitioner to obtain probate with regard to execution of the registered Will dated 31.08.2020 by testator Parvatamma bequeathing petition schedule lands in favour of the petitioner to change the Khatha of the lands in the name of the petitioner.

12. 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 V/s 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.

13. 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

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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 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.

14. In the present case, to prove the execution of Ex.P1 registered will dated 31.08.2020 by testator Parvathamma in favour of the petitioner, petitioner has got examined PW.2-Dinesh B.G. as one of the attesting witnesses of the Will. Petitioner has got examined PW.3-Manjunath S.C. advocate as the scribe of the Will.

15. A perusal of evidence of Dinesh B.G. examined as one of the attesting witness of execution of Ex.P1 registered Will discloses that, he has given evidence supporting the case of the petitioner by stating that on 31.08.2020 in his presence testator Smt. Parvathamma in sound disposing state of mind has executed Ex.P1 registered Will dated 31.08.2020 by bequeathing the petition schedule lands in favour of the petitioner and in his

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presence, the testator has put her thumb impressions to the Will. PW.2 in his evidence has further deposed that, in presence of the Testator of the Will himself and one Shivaraj R. are the two attesting witnesses of the Will have put their attesting signatures to the Will. PW.2-Dinesh B.G. in his evidence has identified the LTM's of Testator Parvathamma found on Ex.P1 Will and also identified his attesting signature on the Will as Ex.P1(a) and signature of Shivaraj R. another attesting witness of the Will as Ex.P1(b).

16. PW.3-Manjunath S.C., advocate in his evidence has deposed that, as per the instructions of Testator Smt. Parvathamma he has drafted Ex.P1 registered Will on 31.08.2020 and the testator after knowing the contents of the Will, has executed the Will by putting her LTM impressions on all the pages of the Will. In his presence, two witnesses by name Dinesh B.G. and Shivaraj R. were present and put their attesting signatures to Ex.P1 Will. PW.3 in his evidence has identified Ex.P1(c) as his scribe signature found on the Will.

17. By going through the contents of Ex.P1 registered Will dated 31.08.2020 and by considering the evidence of PW.2 Dinesh B.G. examined as one of the attesting witness of the Will and evidence of PW.3 Manjunath S.C., the scribe of the Will, this court is of the

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opinion that Petitioner has proved execution of Ex.P1 registered will dated 31.08.2020 by testator Smt.Parvathamma, in his favour by bequeathing the petition schedule properties as required under Section 68 of Evidence Act.

18. In the present case, in response to the publication of public notice with respect to filing of the present petition, no interested persons appeared before this Court by contesting the present petition. On the other hand, the petitioner has proved execution of Ex.P1-registered Will dated 31.08.2020 by testator Smt.Parvathamma in his favour by bequeathing the petition schedule properties and also proved the death of testator Smt.Parvathamma on 12.10.2023. 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 the execution of registered Will dated 31.08.2020 by testator Parvathamma in favour of the petitioner. With these observations, I answer point No.1 and 2 in the **Affirmative**.

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

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**:ORDER:**

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

Office is directed to issue probate with respect to the execution of registered Will dated 31.08.2020 by testator Smt.Parvathamma in favour of the petitioner with respect to petition schedule land, 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 III, transcribed by her, corrected by me and then pronounced in the open Court on this the 28th day of July, 2026.)

(S.A.Hidayathulla Shariff)

III Addl. District & Sessions Judge,
Ramanagara.

:ANNEXURES:**List of witnesses examined for the petitioner:-**

P.W.1 : C.V. Lokesha.
P.W.2 : Dinesh B.G.
P.W.3 : Manjunath S.C.

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**List of exhibits marked for the petitioner:-**

- Ex.P.1 : Registered Will dated 31.08.2020.
- Ex.P.1(a) : Signature of PW2.
- Ex.P.1(b) : Signature of Shivaraj
- Ex.P.1(c) : Signature of PW3.
- Ex.P.2 : Death Certificate.
- Ex.P.3 : Registered Sale Deed dated 20.12.1968.
- Ex.P.4 to 7: RTC's.
- Ex.P.8 : Demand Register extract
- Ex.P.9 : Endorsement

(S.A.Hidayathulla Shariff)
III Addl. District & Sessions Judge,
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Order pronounced in the open court
vide separate order sheet

:ORDER:

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