



IN THE COURT OF III ADDL. DISTRICT AND SESSIONS JUDGE
AT TUMAKURU

PRESENT : Nagireddy.A, BA.L., LL.B, LL.M.,
III Addl. District and Sessions Judge,
Tumakuru

Dated this the 31st day of July 2026

P & SC.1/2026

Petitioner : P.L.Narasimhamurthy,
S/o Lakshminarasiah,
Aged about 52 years,
R/o. Puttashamaiahnapalya,
Near Sira Gate, Kasaba Hobli,
Tumakuru Taluk, Tumakuru..
(By Sri.A.M.K, Advocate)

V/s

Respondent: Nil

ORDERS

The petitioner has filed this petition under section 276
of the Indian Succession Act for grant of probate certificate.

2. The petitioner's case is that schedule property
originally belongs to Karigiraiah. He was in possession and
enjoyment of it as its absolute owner. The petitioner was



looking after the said Karigiraiah. Out love and affection, Karigiraiah executed a Will dated September 18, 1998 bequeathing the petition schedule property in favour of the petitioner. Karigiraiah died on July 15, 1999. Thereafter, the petitioner has approached the concerned authority to change the khatha of the petition schedule property in the name of petitioner. But, they have directed the petitioner to obtain probate from the concerned court. Hence, this petition.

3. The citation was issued through paper publication calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate and it was published in 'Vijaya Karnataka' Kannada daily newspaper. However, none appeared.

4. During the course of enquiry, the petitioner examined himself as PW.1 and two witness as PW.2 and 3 and got marked 6 documents at Ex.P1 to 6.



5. Having heard, the following points that arises for my determination:

- 1) Whether the petitioner is entitled for the probate of the Will dated 18.09.1998?
- 2) What Order?

6. My answer to the above points are as under:

Point No.1 : In the **Affirmative**

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

REASONS

7. Point No.1: PW.1 is the petitioner herein. He filed an affidavit in lieu or chief examination reiterating the facts stated in the petition. In addition to his oral evidence, PW.1 is relying upon the documents at Ex.P1 to 6.

8. Ex.P.1 is the Will dated September 18, 1998 executed by Karigiraiah in favour of the petitioner bequeathing the petition schedule property, Ex.P.2 is the Death Certificate of Karigiraiah, Ex.P3 is the RTC Extracts of Sy.No.60/2, Ex.P.4 is the attestation of Family tree along with the affidavit of



genealogical tree of Kambaiah and Mallappa, Ex.P.5 is the receipt patta book, Ex.P.6 is the Nil encumbrance certificate.

9. PW.2, Rajanna.R is the attesting witness to the Will (Ex.P1). He filed an affidavit stating that he is the attesting witness to the Will in question which was executed by Karigiraiah. According to him, the Will in question contains the LTM of testator and at the time of execution of the Will, the testator was having sound state of mind. Thereafter, he has attested his signature to the Will. He has identified his signature on the Will at Ex.P1(a).

10. PW.3, B.H.Nagendrappa is the scribe of the Will (Ex.P1). He filed an affidavit stating that he has prepared the will as per the instructions of the testator. According to him, the testator has affixed his LTM on the Will in his presence. He has identified his signature on the Will at Ex.P1(b).

11. Upon considering the oral and documentary evidence presented by the petitioner, it is evident that the testator Karigiraiah had executed a Will on September 18,



1998 bequeathing the property in question to the petitioner. He passed away on July 15, 1999 and the petitioner has produced the death certificate at Ex.P2. To substantiate the execution of the Will, the petitioner has called on the attesting witnesses PW.2. This witness testified regarding the execution of the Will and capacity of the testator to execute the Will. In the light of the evidence of PW.2 coupled with Ex.P1, I am of the view that the petitioner has proved the execution of the Will in his favour by the testator Karigiraiah.

12. The learned counsel for the petitioner has argued that when the petitioner has approached the revenue authorities to get the katha changed into his name, they directed him to obtain the probate of will which made the petitioner to approach this court in the current petition. The Hon'ble High Court of Karnataka in the case of **M.R. Mohan Kumar and others Vs NIL** (M F A NO.4399 OF 2023 (ISA) decided on February 1, 2024) has held that the beneficiary



under the will is entitled for probate. The relevant observation are extracted here under:-

"15. Having considered the principles laid down in the judgment of this Court and also considering the factual aspects of the case on hand, none claimed interest in respect of the subject matter of the Will. It is important to note that notice is also issued in Hosadigantha and Indian Express newspapers on different dates viz., 16.12.2022 and 04.03.2023 and none appeared and claimed any interest. **It is also important to note that when the Will was executed in favour of the beneficiary, admittedly, no executor has been appointed and mere non-appointment of an executor cannot be a ground to reject grant of probate.** This Court has already decided the similar issue in the appeal referred (supra) and the request of the wife was turned down, who claimed right based on the Will and the present appellants have also approached the concerned department for transfer of khatha has been rejected. Under such circumstance, sought for the relief of Probate/Succession Certificate. When such claim is made in the instant case as well and the appellants have proved the Will by examining two witnesses i.e., P.Ws.2 and 3, who are the attestors, the Trial Court ought not to have rejected the same, in coming to the conclusion that probate cannot be granted, if no executor is named in the Will. The very approach of the Trial Court is erroneous and failed to take note of the factual aspects of the case and failed to consider the fact that registered Will is executed in favour of the appellants and the same has been proved by complying Sections 63 and 68 of the Evidence Act as well as the Indian Succession Act, 1925. When such being the case, the Trial Court ought not to have come to such a conclusion and the very approach of the Trial Court is erroneous and it requires interference of this Court...."



13. Therefore, in the light of the the oral and documentary evidence provided by the petitioner, I conclude that the petitioner is entitled to the probate of the Will dated September 18, 1998. Accordingly, **point No.1 is held in the Affirmative.**

14. **Point No.2:** In view of the reasons while answering the point No.1, I proceed to pass the following;

ORDER

The petition filed by the petitioner U/sec.276 of Indian Succession Act is hereby **allowed**.

Issue probate of the Will dated 18.09.1998 as prayed for.

(Dictated to the Stenographer, after transcription, typed, printout taken by her, corrected, signed and then pronounced on this the 31st day of July 2026)

(Nagireddy.A)

III Addl. Dist. and Sessions Judge,
Tumakuru

-::A N N E X U R E::-

List of witnesses examined for the petitioner/s:

P.W.1 : P.L.Narasimhamurthy



P.W.2: Rajanna R.

P.W.3: B.H.Nagendrappa

List of documents exhibited for the petitioner/s:

Ex.P1 : Will dtd.18.09.1998

Ex.P1(a & b) : Signatures of PW.2 & 3

Ex.P2 : Death Certificate

Ex.P3 : RTC Extracts of Sy.No.60/2

Ex.P4 : Attestation of Family tree along with
the affidavit of genealogical tree

Ex.P5 : Receipt Patta book

Ex.P6 : Encumbrance Certificate

List of witnesses examined for the respondent/s:

-Nil-

List of documents exhibited for the respondent/s:

-Nil-

**III Addl. Dist. and Sessions Judge,
Tumakuru.**