



**IN THE COURT OF THE IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE TUMAKURU, SITTING AT MADHUGIRI**

DATED THIS THE 20th DAY OF JUNE, 2025

-:PRESENT:-

SMT. SUMANGALA S BASAVANNOUR, B.COM., L.L.M.,
IV ADDL. DISTRICT AND SESSIONS JUDGE, TUMAKURU-MADHUGIRI

P & SC. No. 5014/2025

Petitioner : 1) Sumantha R.
S/o S. Ramachari
Aged about 44 years,

2) Arun Kumar R.
S/o Ramachari
Aged about 31 years,

Both are R/at Gujjarahalli Village
Nidagal Hobli,
Pavagada Taluk
Tumakuru District

[By Counsel – P.Ramesh.]

V/S

Respondents : -Nil-

-:ORDER ON MERIT:-

The present petition is filed by the petitioners under section 276 of Indian Succession Act, 1925, seeking probate certificate of Registered Will and testament dated 03.08.2018 executed by testator Puttamma W/o Subbachari



in favour of the petitioners in respect of petition schedule property.

2. The petition schedule properties are the self acquired properties of Puttamma W/o Subbachari, they have been purchased by her under registered sale deed dated 15.12.1978 as per the Registered sale deed all the revenue entries have been mutated in her name, so she is the absolute owner of the petition schedule properties of Sy.No.206 and measuring 5 acres out of this eastern 2 acres of land and Sy.No.206 totally measuring 5 acres out of this eastern side of the 3 acres.

3. Petitioner stated that it is submitted that, during the life time of Puttamma W/o Subbachari in order to avoid the future litigation, out of love and affection towards the petitioners had executed a Registered will dated 03.08.2018 in favour of petitioners jointly in respect of petition schedule properties as per Registered will item No.1 of schedule property has been bequeathed to 1st petitioner and item No.2 of schedule property is bequeathed to 2nd petitioner and said will is her last will and testament, the testator had knew and approved the contents of the above said will. The testator Puttamma W/o Subbachari had fully involved in executing the said will out of her free and capable to execute



fairly.

4. Petitioner stated that unfortunately Puttamma W/o Subbachari was died on 17.03.2025 at Gujjarahalli Village, Nidagal Hobli, Pavagada Taluk in the house of petitioners, petitioners have performed all his funeral ceremonies.

5. Petitioner stated that the petitioners have succeeded to the petition schedule properties after demise of Puttamma W/o Subbachari by virtue of Registered will dated 03.08.2018. Under the said registered will dated 03.08.2018 petitioners have sole successive heir of petition schedule properties and they are the legatee under the Registered will dated 03.08.2018.

6. Petitioner stated that after demise of Puttamma W/o Subbachari, the petitioners found execution of Registered Will in favour of petitioners at their residence. Since the petitioners are legatee under the said Will had caused an application to the Tahasildar Pavagada to mutate the names of petitioners as Kathedars with respect of petition schedule properties. The Revenue authorities had orally instructed to the petitioners to approach Civil Court and obtain probate by virtue of will dated 03.08.2018, hence this petition. There is no impediment to grant probate



certificate infavour of petitioners.

7. During enquiry petitioner No.1 was examined before the Court as P.W.1. He got marked 11 documents at **Ex.P.1 to Ex.P.11** and also examined four witnesses as P.W2 to P.W.5 closed petitioner's side evidence. Since, there are no respondents in the matter, no evidence produced on behalf of the respondents opposing the petition. Hence matter posted for arguments.

8. I have heard the counsel for petitioner and perused the materials on record. The points that arise for my consideration is:-

1] Whether the petitioner proves that testator Puttamma executed her last Will and testament dated 03.08.2018 bequeathing petition schedule property in favour of petitioner, ?

2] Whether the petitioner is entitle to probate certificate of Will and testament dated 03.08.2018 under section 276 of Indian Succession Act as prayed in the petition, ?

3] What order, ?

9. My answer to the above said points are as under.



1. Point No.1 : In the Affirmative;
2. Point No.2 : In the Affirmative;
3. Point No.3 : As per final order
for the following:-

∴ REASONS ∴

10. **POINT NO.1:-** Before considering the matter on merits it is better to decide whether Court has jurisdiction to entertain petition. I have perused the petition schedule. Petition schedule properties are situated at T.N. Betta Village Nidagal Hobli, Pavagada Taluk. I have also perused Will produced at Ex.P.2. In the Will also it is stated properties are situated at T.N. Betta Village Nidagal Hobli, Pavagada Taluk. Hence there is no impediment to the Court to entertain the petition. Court may grant probate certificate because properties covered under the Will is within the jurisdiction of the Court.

11. Will is produced before the Court as per Ex.P.2. Will is registered Will. In the Will Puttamma W/o Subbachari, aged about 90 years, put her signature. Will containing seven attesting witnesses and signature of the scribe. The petitioner examined 3 attesting witnesses Naganna, G.V. Veeranna and Shantharaju as P.W.2, 3 and



5 these witnesses have clearly stated that Puttamma has executed a Will in favour of the petitioners P.W.4 got drafted the Will as per the instructions of the Puttamma and they have affixed their signatures as a witnesses to the Ex.P.2 Will. Further P.W.4 scribe clearly stated that as per the instructions of the Puttamma he has drafted the Will and got typed and read over in the presence of Puttamma and witnesses P.W.2 and P.W.3 signed the will on all pages of the documents in his presence. And he has also signed as a scribe and he has identified the signature of the testator which is marked as Ex.P.2(d).

12. Under section 63 of the Indian Succession Act Will is compulsorily attestable document. If Will is considered prima facie shows same is attested by P.W.2, 3 and P.W.5 witnesses. If Will is looked into prima facie shows section 63 of the Indian Succession Act is not violated. Since Will is attested by P.W.2, 3 and 5 witnesses it is properly executed. Will is produced before the Court at Ex.P.2. Same is marked through petitioner who is legatee under the Will.

13. Under section 68 of the Indian Evidence Act the compulsorily attestable document can be taken as evidence only if any one of the attesting witness examined



before the Court. In the present case the petitioner examined three attesting witnesses of Ex.P.2 Will deed as P.W.2, 3 and P.W.5. By examination of P.W.2, 3 and P.W.5 the petitioners complied condition under section 68 of Indian Evidence Act. Under the circumstances, prima facie materials shows that Puttamma executed Will in favour of the petitioners and Court can say Puttamma executed Will.

14. I have also perused other documents furnished by the petitioner. Ex.P.2 is the Will dated 03.08.2018. Ex.P.3 is death certificate of testator Puttamma it shows that the testator died on 17.03.2025. Ex.P.4 is RTC extract of Sy.No.206/P11, measuring 5 acres for the year 2017-18 standing in the name of Puttamma. Ex.P.5 is RTC extract Sy.No.206/P11, measuring 5 acres for the year 2018-19 standing in the name of Puttamma. Ex.P.6 is RTC extract Sy.No.206, measuring 5 acres for the year 2025-26 standing in the name of Puttamma. Ex.P.7 is RTC extract Sy.No.206, measuring 5 acres for the year 2021-22 standing in the name of Puttamma, Ex.P8 copy of the sale deed dated 15.12.1978, Ex.P.9 Notarized copy of the Aadhar card of petitioner No.1. Ex.P.10 Notarized copy of the Aadhar card of petitioner No.2. Ex.P.11 Notarized copy of the Aadhar card of Pw-5, Ex.P.1 to Ex.P.11 documents supporting the case of the petitioners that property



described in the petition schedule is existing. Hence Court is of the opinion that Ex.P.2 is last Will and testament of the deceased testator Puttamma. By considering above said documents, I am of the opinion that petitioners proved execution of Ex.P.2 Will. Hence I holding that testator Puttamma, executed Ex.P.2 Will bequeathing the petition schedule property in favour of the petitioner. **Accordingly I answer point No.1 in the Affirmative.**

15. **POINT NO.2:-** In the case on hand present petition is filed for probate certificate of last Will. Petition is not for Letter of Administration. There is no much difference between probate certificate and Letter of Administration. No-doubt as per section 222 of Indian Succession Act probate certificate can be granted in favour of executor named in the Will but by virtue of decision reported in Rihana Praveen's case the legatee can be treated as executors to get benefit under the Will. In the case on hand there is no executor appointed. However by virtue of above said judgment there is no impediment to grant probate certificate under section 276 of Indian Succession Act.

16. In the case in MFA No.4399/2023 (ISA) disposed on 01.02.2024 wherein the Hon'ble High Court of



Karnataka held probate can be granted in favour of legatee though he is not named executor in the Will. Hon'ble High Court also held by conjoint reading of section 234 of the Act it is clear that it is not only the executor named in the Will can seek for probate but depending on the circumstances other persons can also seek probate. In view of the above said decision though the petitioner is not executor named in the Will but he being legatee is entitled to probate certificate of the Will dated 25.04.2014 executed by testator Narayanamma.

17. After considering the above said principles and in view of my answer to point No.1, I am of the view that the petitioners proved his case that Puttamma executed Will in his favour. He being beneficiary under the Will is entitled to probate certificate of the Will. **Accordingly, I answer point No.2 in the Affirmative.**

18. **POINT NO.3:-** In view of my answer to point No.1 and 2 the petitioner is entitled to relief sought in the petition. Hence, I proceed to pass the following:-

:-ORDER:-

The petition in P and SC No.5014/2025 filed



by the petitioners under section 276 of Indian Succession Act, 1925 is here with allowed.

It is held that the petitioners proved execution of Ex.P.2 Will dated 03.08.2018 executed by testator Puttamma bequeathing the petition schedule property in favour of petitioners.

The petitioner is entitled to probate certificate of Ex.P.2 Will dated 03.08.2018

Office is directed to issue probate certificate of Ex.P.2 will in favour of the petitioner with copy of the Will after collecting necessary Court fee.

From the facts and circumstances of the case there is no order as to cost.

*(Dictated to the stenographer same is corrected, signed and then pronounced by me in the open court, on this the **20th day of June, 2026**)*

(SUMANGALA S BASAVANNOUR)
IV Additional District & Sessions Judge,
Tumakuru, Sitting at Madhugiri

-: ANNEXURE:-

LIST OF WITNESSES EXAMINED FOR PETITIONER

PW.1 : Sumantha R.
PW.2 : Naganna



PW.3 : G.H. Veeranna
PW.4 : R. Ramachandrappa
PW.5 : Shantharaju

LIST OF DOCUMENTS EXHIBITED FOR PETITIONER

Ex.P.1 : Genealogical Tree
Ex.P.2 : Registered Will dated 03.08.2018
Ex.P.2(a) : Naganna PW-2 signature
Ex.P.2(b) : Veeranna signature
Ex.P.2(c) : Ramachandrappa signature
Ex.P.2(d) : Puttamma signature
Ex.P.2(e) : Shantharaju signature
Ex.P.3 : Death certificate Puttamma
Ex.P.4 : RTC extract of Sy.No.206/P11 in the year 2017-18
Ex.P.5 : RTC extract of Sy.No.206/P11 in the year 2025-26
Ex.P.6 : RTC extract of Sy.No.206/P11 in the year 2025-26
Ex.P.7 : RTC extract of Sy.No.206/P11 in the year 2021-22
Ex.P.8 : copy of the sale deed dated 15.12.1978
Ex.P.9 : Notarized copy of the Aadhar card of petitioner No.1



Ex.P.10 : Notarized copy of the Aadhar card of
petitioner No.2

Ex.P.11 : Notarized copy of the Aadhar card of Pw-5.

LIST OF WITNESSES EXAMINED FOR RESPONDENT

- Nil -

LIST OF DOCUMENTS EXHIBITED FOR RESPONDENT

- Nil -

IV Additional District & Sessions Judge,
Tumakuru, Sitting at Madhugiri