

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO. 593 OF 2024 (ISA)
C/W.

MISCELLANEOUS FIRST APPEAL NO. 552 OF 2024 (ISA)

IN MFA No.593 OF 2024:

BETWEEN:

- 1 . KOTA PADMANABH SHENOY
S/O LATE K.S.P. SHANBHOGUE
AGED ABOUT 50 YEARS
RESIDING AT: 9, FIELD CREST ROAD,
NEW CANAAN, CT 06840, USA,
ALSO AT:
1385, 24TH MAIN
24TH CROSS, BSK 2ND STAGE
BENGALURU-560 070
REP. BY GPA HOLDER
K. SANGEETHA SHENOY ALIAS
SANGEETHA PANDITH
- 2 . K. SANGEETHA SHENOY
ALIAS SANGEETHA PANDITH
D/O LATE K.S.P. SHANBHOGUE

AGED ABOUT 52 YEARS
RESIDING AT: 1385, 24TH MAIN
24TH CROSS, BSK 2ND STAGE
BENGALURU-560 070

...APPELLANTS

(BY SRI. ARUN KUMAR K, SENIOR ADVOCATE FOR
SRI. SUNDARA RAMAN M.V, ADVOCATE)

AND:

NIL

...RESPONDENT

THIS MFA IS FILED U/S 299 OF INDIAN SUCCESSION ACT
AGAINST THE ORDER DATED 12.10.2023 PASSED IN P AND SC.
No.555/2022 ON THE FILE OF XXIV ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE, BENGALURU, CCH.No.6 REJECTING THE
PETITION FILED UNDER SECTION 220, 234, 278 AND PARA IX OF
THE INDIAN SUCCESSION ACT.

IN MFA No.552 OF 2024:

BETWEEN:

1 . KOTA PADMANABH SHENOY
SON OF LATE K.S.P. SHANBHOGUE
AGED ABOUT 50 YEARS
RESIDING AT: 9, FIELD CREST ROAD
NEW CANAAN, CT 06840, USA
ALSO AT:
1385, 24TH MAIN

24TH CROSS, BSK 2ND STAGE
 BENGALURU-560 070
 REP. BY GPA HOLDER
 K. SANGEETHA SHENOY ALIAS
 SANGEETHA PANDITH

2 . K. SANGEETHA SHENOY
 ALIAS SANGEETHA PANDITH
 DAUGHTER OF
 LATE K.S.P. SHANBHOGUE
 AGED ABOUT 52 YEARS
 RESIDING AT: 1385, 24TH MAIN
 24TH CROSS, BSK 2ND STAGE
 BENGALURU-560 070

...APPELLANTS

(BY SRI. ARUN KUMAR K, SENIOR ADVOCATE FOR
 SRI. SUNDARA RAMAN M.V, ADVOCATE)

AND:

NIL

...RESPONDENT

THIS MFA IS FILED U/S 299 OF INDIAN SUCCESSION ACT,
 1925, AGAINST THE ORDER DATED 12.10.2023 PASSED IN P
 AND SC. No.554/2022 ON THE FILE OF THE XXIV ADDITIONAL
 CITY CIVIL AND SESSIONS JUDGE, BENGALURU CCH.No.6
 REJECTING THE PETITION FILED UNDER SECTION 220, 234, 278
 AND PARA IX OF THE INDIAN SUCCESSION ACT.

THESE MFAs HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 13.02.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

Miscellaneous First Appeals No.593/2024 and 552/2024 are preferred by the appellants assailing the Orders dated 12.10.2023 passed by the XXIV Additional City Civil and Sessions Judge, Bengaluru City ('trial Court' for short), in P and SC No.555/2022 and 554/2022, respectively.

2. We have heard Shri. Arun Kumar K, learned senior counsel as instructed by Shri. Sundara Raman M.V, learned Advocate appearing for the appellants in both the appeals.

3. The facts of the case are as follows:-

Appellants are the children of Shri. K.S.P. Shanbhogue and Smt. K. Vinutha Shanbhogue and their sole surviving legal heirs. The appellants father passed away on 02.12.2020 and their mother died on 08.05.2021. It is contended that the schedule properties were left behind by their parents.

The appellants filed P&SC No.554/2022 under Sections 220, 234, 278 and Part IX of the Indian Succession Act, 1925, for issue of Letters of Administration in favour of the appellants with respect to the estate of Late Smt. K. Vinutha Shanbhogue and P&SC No.555/2022 under Sections 220, 234, 278 and Part IX of the Indian Succession Act, with regard to properties standing in the name of Late Shri. K.S.P. Shanbhogue before the trial Court. In compliance with the Order of the trial Court, the appellants published notice in two local newspapers on 29.12.2022, calling upon any person to file their objection to grant of Letters of Administration in favour of the appellants. No objectors appeared in spite of issuance of public notice. Thereafter, in

P&SC No.554/2022 appellant No.2 got examined as PW1 and got marked five documents as Exs.P1 to P5 and in P&SC No.555/2022, appellant No.1 got examined as PW1 and got marked five documents as Exs.P1 to P5.

The trial Court considered the issue whether the appellants proved that they are entitled for Letters of Administration in their favour with respect to the estate of Smt. K. Vinutha Shanbhogue and Shri. K.S.P. Shanbhogue in P&SC No.554/2022 and 555/2022, respectively. The Court in both the cases held that the appellants herein had proved that they are the legal heirs entitled to succeed to the estate of their parents. However, it was found that they had not produced any documents to establish that the schedule properties for which the Letters of Administration were sought stand in the name of the deceased. The trial Court dismissed the petitions filed under Sections 220, 234, 278 and Part IX of the Indian Succession Act, 1925. Aggrieved by the said Orders, the appellants are in appeal before this Court.

4. The learned senior counsel appearing for the appellants contends that it is settled law that a Testamentary Court, while granting probate or Letters of Administration is not required to examine the title to the properties for which Letters of Administration is sought. Further, the grant of probate or Letters of Administration does not recognise the deceased's title to the property. Therefore, it is always open for a person to dispute title even if probate or Letters of Administration are granted.

5. It is further contended that the trial Court acknowledged that the appellants were Class I legal heirs which was sufficient for grant of Letters of Administration. However, the trial Court held that the appellants were obliged to produce the documents to show that the properties are standing in the name of the deceased and are the very same properties left by the deceased. It is contended that this finding is in contravention to the provisions of the Indian Succession Act. The trial Court relied on Section 317 of the Indian Succession Act to hold that the appellants were under an obligation to provide the

full and true estimate of all the properties but have failed to do so. However, it is contended that the said provision requires only a true and full inventory of the deceased's assets and liabilities must be provided to the Court within a fixed period of time, after the grant of the Letters of Administration. Therefore, the application of this provision before grant of the Letters of Administration is premature, it is contended.

6. The learned senior counsel appearing for the appellants has relied on the following decisions:-

- **A. Ramamurthy and Others** in **MFA No.6652/2016 (ISA)** by order dated **05.01.2017**; and
- **Smt. Severine D' Souza and Another v. Felix Ambrose D'Souza** reported in **ILR 2003 KAR 194**.

7. We have considered the contentions advanced. The application submitted by the appellants herein was for Letters of Administration in respect of the property belonging to their parents (Late Smt. K. Vinutha Shanbhogue and Late Shri. K.S.P. Shanbhogue). A Full

Bench of this Court in **Smt. Severine D'Souza's** case (supra), was called upon to consider the scope and effect of Probate granted in respect of a Will. The Full Bench noticed that the Apex Court in **Ishwardeo Narain Singh v. Kamta Devi** reported in **AIR 1954 SC 280**, had held that the question of title of the testator to the property is alien to proceedings under the Indian Succession Act. However, a Division Bench of the Karnataka High Court in **Maria Bai and another v. Jayamma** passed in **M.F.A.No.2353/1990** by Order **dated 25.05.1999**, had held that when a contention is raised as against the Will and the matter is converted to a Civil Suit, the Court gets jurisdiction to determine the question of title to the property and competency of a testator to execute the Will. Considering the provisions of Sections 213 and 227 of the Indian Succession Act as well as the decision of the Apex Court in **Rukmani Devy v. Narendra Lal Gupta** reported in **AIR 1984 SC 1866** and of the Madras High Court in **Alagammal v. V. Radhammal** reported in **AIR 1992 Madras 136**, the Full Bench of this Court came to the

conclusion that the Succession Act is a self-contained Code and grant or refusal of probate has to be decided in accordance to the same. It was held that grant of probate establishes conclusively as to the appointment of the executor and the valid execution of the Will. But no question of title or of the existence of the property itself is to be decided in the probate proceedings. It was therefore held that the Division Bench decision in ***Maria Bai***'s case is a judgment *per incuriam* and the same was over-ruled. The reference was answered holding that the question of title or even the existence of property is immaterial in probate proceedings and all that is to be considered is whether the Will was validly executed.

8. The said decision of the Full Bench was considered by the learned Single Judge of this Court in ***MFA No.6652/2016 (ISA)*** by its judgment ***dated 05.01.2017***. Relying on the said judgment as well as the Apex Court decision in ***Delhi Development Authority v. Mrs. Vijaya C. Gurshaney and another*** reported in ***AIR 2003 SC 3669***, the learned Single Judge held that the trial Court had

committed a serious error in insisting on production of title deeds pertaining to the properties in question.

9. Having considered the contentions advanced, we find that the notice of an application for Letters of Administration had been duly taken out by the appellants in the Probate Court. No objections had been received. The Court has considered the documents produced and has accepted the contention of the appellants that they are the legal heirs of Late Smt. K. Vinutha Shanbhogue and Late Shri. K.S.P. Shanbhogue, respectively, and that the Letters of Administration could be granted to them. The sole reason for the trial Court to reject the application was that the title deeds of the property had not been produced by the appellants.

10. We have considered the contentions advanced. We have also perused the provisions of the Indian Succession Act, especially the provisions of Part VIII and IX of the Indian Succession Act. The Apex Court in ***Ishwardeo Narain Singh***'s case (supra), has clearly held that the question of title of the testator to the property bequeathed is

alien to proceedings under the Indian Succession Act. Though a different view was taken in ***Maria Bai***'s case (supra), a Full Bench of this Court considering the provisions of the Indian Succession Act and the Apex Court's decisions has come to a clear conclusion that the question of title is not relevant in proceedings under the Indian Succession Act. In the instant case, notice of the applications for Letters of Administration had been duly taken out and no objectors have appeared or objected to the grant of the Letters of Administration. On the basis of the documents produced by the appellants, the Court has come to the conclusion that the appellants are the legal heirs entitled to succeed to the estate of Smt K. Vinutha Shanbhogue and Shri. K.S.P. Shanbhogue and that they would be entitled to Letters of Administration.

11. In the above factual situation, we are of the opinion that the rejection of the application filed for Letters of Administration on the ground that the details regarding the properties were not produced before the Court was unsustainable.

12. Accordingly:-

- (i) The Appeals are ***allowed***.
- (ii) The Order dated 12.10.2023 passed by the XXIV Additional City Civil and Sessions Judge, Bengaluru City in P and SC No.555/2022 and 554/2022, is set aside.
- (iii) The matters are remanded to the trial Court for consideration of the application for Letters of Administration without insisting on proof of title of the testator with regard to the property.
- (iv) The application shall be decided within a period of three months from the date of receipt of copy of this judgment.

All pending interlocutory applications shall stand *disposed of* in both the appeals.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

cp*