



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR**

**MISCELLANEOUS FIRST APPEAL NO.6160 OF 2024 (ISA)**

**BETWEEN:**

SMT. M. AMRUTHA  
D/O. SMT. KARIYAMMA,  
W/O. SRI. CHOWDAPPA,  
AGED ABOUT 22 YEARS,  
AGRICULTURIST,  
R/AT HEGERE VILLAGE,  
CHITRADURGA TALUK AND DISTRICT.

...APPELLANT

(BY SRI. RAJARAM T, ADVOCATE)

**AND:**

NIL

.....RESPONDENT

Digitally  
signed by  
RAMYA D  
Location:  
HIGH  
COURT OF  
KARNATAKA

THIS MFA FILED UNDER SECTION 299 INDIAN SUCCESSION ACT, AGAINST THE ORDER DATED 25.07.2023 PASSED IN P AND S.C.NO. 11/2023 ON THE FILE OF THE 2ND ADDITIONAL DISTRICT AND SESSIONS JUDGE, CHITRADURGA, DISMISSING THE PETITION FILED UNDER SECTION 276(2) OF INDIAN SUCCESSION ACT, 1925. BARRED BY TIME.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR



### **ORAL JUDGMENT**

The appeal is filed by the petitioner questioning the order dated 25.07.2023 passed in P & SC.No.11/2023 filed under Section 276(2) of Indian Succession Act by the Special, 2<sup>nd</sup> Addl. District and Sessions Judge, Chitradurga, seeking for grant of probate with respect to the registered Will dated 09.12.2015 executed by one Kariyamma, thereby, the petition was dismissed.

2. It is stated that the appellant is the adopted daughter of Kariyamma. One Chowdappa was the owner of the petition schedule land. Kariyamma is wife of Chowdappa. After the death of Chowdappa, the katha was mutated in the name of Kariyamma. During the life time of Kariyamma, she had taken the appellant in adoption through the registered adoption deed dated 04.03.2011. Thereafter, Kariyamma executed the Will dated 09.12.2015 bequeathing the petition schedule land in favour of the appellant. Thereafter, Kariyamma died on 23.11.2021. Therefore, the appellant filed a petition for



seeking probate, but it is dismissed on the reason that the appellant has not produced the death certificate of Kariyamma.

3. Further assigned the reason that though P.W.2 is examined and he has deposed that Kariyamma has affixed her thumb impression to the said Will, but LTM of Kariyamma in the Will is not identified as that of Kariyamma. Therefore, the trial Court has dismissed the petition. Further assigned the reason that the appellant has not appointed the executor, therefore, the appellant is not entitled for probate under Section 276(2) of Indian Succession Act. Further assigned the reason that the relationship of the appellant and Kariyamma is not proved. As in the Aadhaar Card, voter ID card and also in the Will dated 09.12.2015 the appellant is shown as daughter of Manjunathaswamy who is the natural father of the appellant, therefore, on these reasons, dismissed the petition.



4. After hearing the arguments of learned counsel appearing for the appellant, the following points would arise for my consideration:

- i. Whether, under the facts and circumstances involved in the case, the appellant is entitled for grant of probate certificate?*
- ii. Whether, the order passed by the trial Court requires interference by this Court?*

5. The appellant in her evidence has stated that she is the adopted daughter of Kariyamma. Originally, the schedule land belongs to Chowdappa as it is granted by the Government. Kariyamma is the wife of Chowdappa. After the death of Chowdappa, Kariyamma inherited the schedule land. Since, Chowdappa and Kariyamma were issueless, therefore, Kariyamma during her lifetime adopted the appellant as a daughter through the registered adopted deed dated 04.03.2011 as per Ex.P.5. Ex.P.1 is the grant certificate granting land in favour of Chowdappa. Ex.P.2 is the death certificate of Chowdappa.



Ex.P.13 is the Will dated 09.12.2015 bequeathing the petition schedule land in favour of the appellant.

6. Ex.P.13 contains LTM of Kariyamma, but it is not identified by anyone, but P.W.2 who is the attesting witness has deposed that Kariyamma has expressed her intention and willingness to bequeath the property in favour of the appellant and the said Kariyamma had put her LTM and thereafter had put signature. All the evidence goes to prove that Kariyamma had executed the Will in favour of the appellant and there is no ground for questioning the Will executed by Kariyamma. In spite of citation published in the news paper, there is no rival claim opposing the claim of the appellant. Therefore, execution of Will as per Ex.P.13 is proved.

7. Though, under the Hindu Law seeking probate based on the Will is not mandatory, but there is no prohibition to grant probate certificate. Though, the appellant is the beneficiary of the Will, but entitled for



probate. Therefore, the appellant is entitled for certificate of probate in respect of the Will dated 09.12.2015. As discussed above, Chowdappa and Kariyamma died issueless. Therefore, Kariyamma has taken the appellant in adoption and quite naturally, the appellant's natural father is one Manjunathaswamy, accordingly, the appellant name is reflected in the Aadhaar Card, bank pass book, ration card showing one Manjunathaswamy as father of the appellant. But Ex.P.5 is the registered adoption deed proving that the appellant had become the adopted daughter of Kariyamma. Therefore, in the absence of any contra evidence, the registered adoption deed is proved. Therefore, the trial Court is not correct in dismissing the petition. Hence, I answer point Nos.1 and 2 in ***affirmative.***

8. Accordingly, I proceed to pass the following

**ORDER**

- i. The appeal is ***allowed.***



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- ii. The order dated 25.07.2023 passed in P & SC.No.11/2023 filed under Section 276(2) of Indian Succession Act by the Special, 2<sup>nd</sup> Addl. District and Sessions Judge, Chitradurga, is hereby set aside.
- iii. Issue certificate of probate as per law.

SD/-  
**(HANCHATE SANJEEVKUMAR)**  
**JUDGE**

PB  
List No.: 1 Sl No.: 33