



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD

AND

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MFA NO.100789 OF 2026 (ISA)

BETWEEN:

NINGAVVA W/O. DESAIGOUDA SURANAGOUDAR,
AGE: 55 YEARS, OCC: HOUSEHOLD,
R/O: SURASHETTIKOPPA, TAL: KALGHATAGI,
DIST: DHARWAD – 580 001.

... APPELLANT

(BY SRI. ROHIT L. SHEELVANT, ADVOCATE)

AND:

LINGANAGOUDA
S/O. BHARAMAGOUDA PATIL @ SURANAGOUDAR,
AGE: 38 YEARS, OCC: AGRICULTURE,
R/O: SURASHETTIKOPPA,
TQ: KALAGHATAGI, DIST: DHARWAD,
PRESENTLY RESIDING AT 2ND CROSS,
RAJNAGAR, MALAPUR, DHARWAD – 580 001.

...RESPONDENT

(BY SRI. PRANAV U. BADAGI, ADVOCATE)

THIS MFA IS FILED U/S. 299 OF THE INDIAN SUCCESSIONS ACT, PRAYING TO CALL FOR THE RECORDS, ALLOW THE APPEAL AND SET ASIDE THE ORDER DATED 19.08.2025 PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, DHARWAD AT DHARWAD IN P & SC NO.15/2025 IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD
AND
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD)

The appellant has called in question the order dated 19.08.2025 in P & SC. No.15/2025 and the application under Section 276 of the Indian Succession Act, 1925 on the file of the IV Additional District and Sessions Judge, Darwad [for short, *the probate Court*]. The respondent [*the applicant before the probate Court*] has filed this application without arraying any person as a respondent asserting that his younger paternal uncle, Sri Desaigouda son of Shivanagouda Suranagoudar @ Patil, has left behind his Last *Will* and Testament dated 13.06.2013 [*the Will*] bequeathing

- Two [2] acres of land in Survey No.40 of Surashettikoppa Village, Kalaghatagi Taluk, Dharwad District, and



- Another half a share in the residential property. The probate Court has allowed this application by the impugned order.

2. The appellant contends that the respondent has deliberately suppressed that she has survived her husband and that the respondent has also fabricated the Will. Sri Rohith L. Sheelvant, the learned counsel for the appellant argues to support the appellant's case asserting that the respondent is taking undue advantage of the probate in getting the revenue entries for the properties mutated in his favour. Sri R.H. Angadi, the learned counsel for the respondent, while seeking to justify why the respondent's uncle [the appellant's husband] has bequeathed the properties in favour of the respondent, submits that even if the appellant could succeed, it must only be in seeking revocation of the probate as contemplated under Section 263 of the



Indian Succession Act, 1925 [for short, '*the Succession Act*'].

3. When queried, Sri R.H. Angadi submits that the respondent has indeed filed an application with the revenue Authorities for change of revenue entries but the respondent will not prosecute the application for a period of three [3] months, if within this time the appellant can file an application for revocation of the probate. These submissions and circumstances are considered, and this Court must opine that amongst others, the probate Court must examine whether an application for probate could indeed be sustained by the respondent if he was not an appointed *executor* as contemplated under Section 2[c] of the Indian Succession Act.

4. Further, the probate Court will have to consider all the circumstances in the light of the reasons for which a probate, even if it could be granted, can be revoked. As such, there must be



interference. The next question is should the respondent have the benefit of probate when the appellant has asserted an interest denying the very jurisdiction to file an application for probate, and this question stands largely resolved with Sri R.H. Angadi, submitting on instructions that the respondent will not prosecute the application filed with the revenue authorities for the change in revenue entries for a period of three [3] months.

5. In the light of the afore, the appeal stands disposed of without prejudice to the appellant to avail remedy under Section 263 of the Indian Succession Act leaving open all questions to be considered and observing that the revenue authority shall not act upon any application that is filed for a period of six [6] months. If the appellant files an application under Section 263 of the Indian Succession Act, the respondent shall co-operate for an expeditious disposal.



The Registry is directed to return the certified copy of the interim order retaining a photocopy thereof.

Sd/-
(B.M.SHYAM PRASAD)
JUDGE

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

RSH/CT: ASC
List No.: 3 Sl No.: 17