

**(2025) 06 KAR CK 0240**  
**In the Karnataka High Court, Principal Bench**  
**Case No : Probate Civil Petition No. 15 Of 2024**

Ramesh T.G.

APPELLANT

Vs

Nil

RESPONDENT

**Date of Decision :** 27-06-2025

**Acts Referred:**

Indian Penal Code, 1860 — Section 279, 304A, 337, 338

**Citation :** (2025) 06 KAR CK 0240

**Hon'ble Judges :** S Rachaiah, J

**Bench :** Single Bench

**Advocate :** Talha Ismail Bengre, K Nageshwarappa

**Final Decision :** Allowed

## Judgement

H.P. Sandesh, J

### CAV ORDER

1. This petition is filed under Part IX Chapter I Section 218 and Chapter IV Section 276 read with Section 300 of the Indian Succession Act, 1925, praying to grant the Probate in respect of the last Will and Testament dated 02.05.2017 of the deceased Rangamma.

2. The factual matrix of the case of the petitioner in the petition is that a lady known and called Rangamma, being the widow of late Subba Shetty, also being an Indian National, Hindu by religious denomination and permanent resident of Door No.1356, Sree Chowdeshwari Street, 10th Ward, Sargur Town, Sargur Hobli, H.D.Kote Taluk, Mysore District, passed away on 27.06.2019 at her residence. The deceased Rangamma was aged 80 years at the time of her death. The deceased Rangamma was the biological daughter of late Rangashetty and late Venkatamma. The above said address was the permanent place of abode of the deceased Rangamma at the time of her death and she was domiciled at the aforesaid address.

3. It is the case of the petitioner that during her lifetime, the deceased Rangamma married Subba Shetty and they did not have any biological issues and hence they adopted a boy named Gopala Krishna and he began to reside with them as a natural born son of theirs. The said Subba Shetty predeceased Rangamma. Her adoptive son Gopala Krishna has survived her and is currently residing in the above mentioned address. He is the sole survivor of her family. The parents of the said Rangamma also predeceased her and tabular column is also given in the petition regarding the relationship with the deceased.

4. The said Rangamma died testate. She had made and executed her last Will and Testament on 02.05.2017 and the same was registered as document No.MYW-3-00010-2017-18 and stored in CD No.MYWD82 in Book III in the Office of the Sub-Registrar of Assurances, Mysore West, Mysore District, State of Karnataka. The said Will was made and executed by Rangamma when she was of sound mind, body, memory and understanding and was duly attested by Sri M.N.Nagesh and Sri B.Krishnamurthy, advocate. The said B.Krishnamurthy is now deceased.

5. It is contended that the original of the said Will was in the custody of the petitioner, he being the executor appointed thereof, by the deceased, which is placed before the Court. It is contended that under the aforesaid last Will and Testament dated 02.05.2017 of Rangamma, it is asserted that the deceased appointed Mr.Ramesh T.G., who is the petitioner herein, to be the sole executor thereof with power to act in his absolute discretion. The petitioner is duly educated and a greatly respected member of society and he is a proper and fit person to be appointed as executor of the last Will and Testament dated 02.05.2017 of the deceased Rangamma and was consequently so appointed by the deceased Rangamma and he is ready and willing to act as the executor and trustee of the last Will and Testament dated 02.05.2017 and hence filed this petition.

6. It is contended that the deceased Rangamma died leaving movable and immovable properties in Sy.No.55/55 of N.Belthur Village, Antharasanthe Hobli, H.D. Kote Taluk, Mysore District, State of Karnataka. The petitioner in his affidavit of valuation at Annexure-A has set out the assets and liabilities relating to and owned by the estate of the deceased Rangamma. In terms of Annexure-B also set out the valuation. It is contended that the said assets exclusive of what the deceased may have been possessed of or entitled to as a trustee for another and not as beneficiary or with power to confer a beneficial interest and also exclusive of the items mentioned in the said Annexure-B, but inclusive of all rents, interests and dividends and increased value since the date of her death and under the gross value of Rs.15,04,250/-. The petitioner undertakes to duly administer the property and credits of the said deceased Rangamma and to make a full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of Probate to him and also to render to this Hon'ble Court a true account of the said property and credits within one year

from the said date. Hence, prayed this Court to issue grant of Probate in respect of the last Will and Testament date 02.05.2017.

7. Having heard the learned counsel for the petitioner and also on perusal of the material available on record, the points that arise for the consideration of this Court are:

(i) Whether the petitioner has made out a ground to issue the Probate, as sought in the petition?

(ii) What order?

8. Having filed this petition, the petitioner also taken the citations in the English daily newspaper "The Hindu" and in the Kannada daily newspaper "Kannada Prabha" having circulation at H.D.Kote, Mysore District and filed the memo along with the paper publication and the same is accepted. When this Court noticed that the Testatrix had adopted a son called Gopala Krishna, ordered to issue notice to him to seek his response and consequently issued notice to him and the same was served and he did not choose to appear and respond and hence service of notice against him was held sufficient and thereafter case is posted for evidence.

9. The petitioner has been examined and he filed an affidavit and also got marked the documents at Exs.P.1 and 2 i.e., death certificate of Rangamma and the original Will dated 02.05.2017. In order to prove the said Will, examined one witness and he also filed an affidavit and also identified the signature of the Testatrix as per Ex.P2(a) to P2(d) and also identified his signature as Ex.P.2(e).

10. Having perused the averments made in the petition as well as the affidavit filed by P.W.1 and marking of Exs.P.1 and 2 and also on examination of P.W.2, who is the attesting witness, he has identified the signature of the Testatrix and also his signature and proved the very execution of the Will. It is stated that the other attestor Krishna Murthy, who is an advocate, is no more and one of the witness is examined before the Court and proved the very execution of the Will. It is important to note that this Court also having taken note of the mention made in the petition that one adopted son is in existence, issued notice to him and he did not choose to appear and file his response inspite of service of notice. On perusal of the Will, this petitioner has been appointed as an executor and in the affidavit as well as in the petition he has categorically stated that he intend to act upon as executor and also filed affidavit as per Annexures-A and B and valued the properties. The petitioner has undertaken to duly administer the property and credits of the said deceased Rangamma and to make a full and true inventory thereof and exhibit the same in the Court within six months from the date of grant of Probate to him and also to render to this Hon'ble Court a true account of the said property and credits within one year from the said date.

11. Having taken note of the averments made in the petition as well as affidavit filed by P.W.1 and P.W.2 and also the documents, which have been marked, the

Testatrix is no more. The death certificate of the Testatrix is marked as Ex.P.1 and the last Will is marked as Ex.P.2 and the same has been proved by examining P.W.2, who identifies the signature of the Testatrix and also identified his signature. In his affidavit he has categorically deposed that Testatrix Rangamma has signed the said Will in his presence and identified the signature of the Testatrix as well as his signature. When such compliance is made, it is appropriate to grant the Probate as sought in favour of the petitioner.

12. In view of the discussions made above, I pass the following:

ORDER

(i) The petition is allowed.

(ii) The Probate is granted, as sought.

(iii) The petitioner is directed to pay the Court fee and also file the inventory within six months and also file account of the said property and credits within one year, as undertaken.