



NC: 2026:KHC:19384-DB
MFA No. 177 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2026

PRESENT

HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.177 OF 2026 (ISA)

BETWEEN:

1. ANGELO R CONSTANTINO
AGED ABOUT 46 YEARS,
SON OF LATE RONALD E. CONSTANTINO,
CITIZEN OF THE UNITED STATES OF AMERICA,
RESIDING AT 306, BRICKYARD COURT,
VALRICO, FLORIDA, 33594,
UNITED STATES OF AMERICA.
2. RONALD C CONSTANTINO
AGED ABOUT 48 YEARS,
SON OF LATE RONALD E. CONSTANTINO,
CITIZEN OF THE UNITED STATES OF AMERICA,
RESIDING AT 6980, SONG DRIVE, COCOA,
FLORIDA, 32927,
UNITED STATES OF AMERICA.

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA

THE APPELLANTS ARE REPRESENTED HEREIN BY
THEIR POWER OF ATTORNEY HOLDER
SRI CHIDANANDA M.,
AGED ABOUT 38 YEARS,
SON OF MUDALAGIRIYAPPA,
GOLARAHATTI, RESIDING AT KATANAYAKANAHALLI,
KASTURIRANGAPPANAHALLY, CHITRADURGA,
KARNATAKA 577511.

...APPELLANTS

(BY SRI. MOHAMMED SHAMEER, ADVOCATE)



AND:

1. NIL

...RESPONDENT

THIS MFA IS FILED UNDER SECTION 299 OF THE INDIAN SUCCESSION ACT, 1925, AGAINST THE ORDER DATED 08.12.2025 PASSED IN P AND S.C.NO.27/2024 ON THE FILE OF THE 1ST ADDITIONAL DISTRICT AND SESSIONS JUDGE, CHITRADURGA, DISMISSING THE PETITION FILED UNDER SECTION 228 AND 278 OF INDIAN SUCCESSION ACT & ETC.

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

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal has been filed seeking to challenge the order dated 08.12.2025 passed in P & SC No.27/2024 by the Court of I Additional District and Sessions Judge at Chitradurga, under the provisions of Sections 228 and 278 of the Indian Succession Act, 1925, (hereinafter referred to as "the Succession Act").

2. The facts briefly are that the appellants/petitioners succeeded to the estate of their deceased father, late



Ronald E Constantino and they are the only legal heirs of the said deceased. During her lifetime, the wife of Ronald E. Constantino, Smt. Rashmi Constantino had executed a Will dated 18.09.2009 bequeathing her entire estate to her husband. The said Rashmi Constantino predeceased her husband. A probate petition was filed by Ronald E. Constantino seeking to authenticate the Will of Rashmi Constantino, which resulted in Ronald E. Constantino being appointed as a personal representative of his late wife by the jurisdictional Competent Court in Florida, USA on 15.11.2022.

2.1 After the death of Sri Ronald E. Constantino, appellant No.1/petitioner No.1, who is the son, had obtained an order dated 01.08.2023 from the Court of the 13th Judicial Circuit, Hillsborough County, Florida State, USA appointing him as the personal representative of the estate of deceased Rashmi Constantino as well as granting him letters of administration. A similar order was obtained by appellant No.1/petitioner No.1 on 01.08.2023 for the



estate of the deceased Ronald E Constantino. Subsequently, letters of administration were also obtained by appellant No.1 on 03.08.2023, from the Competent Court at Florida, USA.

2.2 Subsequently, the appellants/petitioners filed a petition P & SC No.27/2024 before the learned Trial Court contending that the letters of administration be granted to them in respect of suit Schedule 'A' and 'B' properties belonging to the deceased Rashmi Constantino as well as to the estate of the deceased Ronald E. Constantino, are as set out in the petition. Notice of the petition was duly published in English daily newspaper the "New Sunday Express" dated 30.06.2024 and in Kannada daily newspaper "Kannada Prabha" dated 30.06.2024. There was no presence of any party, objecting to the grant of the probate before learned Trial Court.

2.3 The learned Trial Court, however, by the Impugned Order, dismissed the petition filed by the petitioners/appellants on two grounds. Firstly, the probate



obtained in USA could not be taken into account as the father of the appellants/petitioners had not made any attempt to obtain letters of administration through a competent Court in India and secondly, the details of the exact amount of the Schedule 'B' Property was not given. It is this dismissal that has been challenged before this Court.

3. The learned counsel for the appellants/petitioners has drawn the attention of the Court to the provisions of Section 228 of the Succession Act, to submit that a Will which has been authenticated by a Court abroad can be accepted in a Court of competent jurisdiction in India. It is contended that Section 228 of the Succession Act permits grant of letters of administration on the strength of an authenticated copy of a Will that has already been provided in a foreign Court. Since the Will was proved and deposited in the Courts of competent jurisdiction in Florida, USA, the learned Trial Court erred in dismissing the petition.



3.1. Learned counsel further submits that the only requirement of Section 228 of the Succession Act is that the Will must have been proved by deposit in a Court of competent jurisdiction outside India and the petition filed under Section 276 of the Succession Act must be accompanied by a properly authenticated copy of the will. Since both these requirements were fulfilled, the probate ought to have been granted.

3.2. It is further contended that the learned Trial Court raised several requirements during the course of proceedings before the Trial Court and each of these requirements were fulfilled by the appellants. The petition and probate were not objected to and was adjudicated unopposed. Since the documents have already been authenticated in a Court of competent jurisdiction abroad, no further authentication was requisite.

4. Learned counsel for the appellants has relied on the decision of the Supreme Court in the case of ***Sameer Kapoor And Another vs. State Through Sub-Division***



Magistrate South, New Delhi And Others¹ to submit that where a probate has been granted by a competent Court abroad and a Will has been proved, it does not require to be proved once again, if there is no objection by anyone. In addition, reliance has also been placed on the judgment of a Single Judge of the Delhi High Court in ***Dr. Sanjay Khanduja V. Punjab National Bank and Another²***.

5. At the outset, it is requisite to extract Section 228 of the Succession Act which is below:

"228. Administration, with copy annexed, of authenticated copy of Will proved abroad —

When a Will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the State, whether within or beyond the limits of India, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed."

5.1. A plain reading of this provision shows that where an authenticated copy of a will proved abroad is reproduced, the Court has to examine as to whether the petition is

¹ (2020) 12 SCC 480

² 2021 SCC OnLine Del 3209



accompanied by copy of a foreign judgment along with a copy of the Will duly authenticated. The provision provides that upon presentation of an apostilled copy as contemplated under Section 228 of the Succession Act, the Court should ordinarily grant letters of administration.

6. In addition, in terms of Section 41 of the Indian Evidence Act, an order issued by a Probate Court outside the territorial jurisdiction of India would be automatically enforceable in India. Section 41 of the Indian Evidence Act reads as under:

" 41. Relevancy of certain judgments in probate, etc., jurisdiction.– *A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial, admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.*

Such judgment, order or decree is conclusive proof –

that any legal character which it confers accrued at the time when such judgment, order or decree came into operation;

that any legal character, to which it declares any such person to be entitled, accrued to that person



at the time when such judgment 1 order or decree declares it to have accrued to that person;

that any legal character which it takes away from any such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease;

and that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property."

7. The Supreme Court in the ***Sameer Kapoor case*** has held that in view of the settled law, an application for probate or letters of administration seeks a recognition of a Court to perform a duty, the probate or letters of administration issued by a competent Court is conclusive proof of the legal character throughout the world. In addition, it has been held that once a will has been proved in a Court of competent jurisdiction, it is not required to be proved again. The proceedings are not an action in law, but an action in rem, in the following manner:

"14. At the outset, it is required to be noted that the relevant provisions for grant of probate or letters of administration with the will would be Section 276 of the Act. Section 276 of the Act reads as under:

"276. Petition for probate – (1) *Application for probate or for letters of administration, with the Will annexed, shall be made by a petition distinctly written*



in English or in the language in ordinary use in proceedings before this Court in which the application is made, with the Will or, in the cases mentioned in sections 237, 238 and 239, a copy, draft, or statement of the contents thereof, annexed, and stating—

- (a) the time of the testator's death,*
- (b) that the writing annexed is his last Will and testament,*
- (c) that it was duly executed,*
- (d) the amount of assets which are likely to come to the petitioner's hands, and*
- (e) when the application is for probate, that the petitioner is the executor named in the Will.*

(2) In addition to these particulars, the petition shall further state –

- (a) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and*
- (b) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.*

(3) Where the application is to the District Judge and nay portion of the assets likely to come to the petitioner's hands is situate in another State, the petition shall further state the amount of such assets in each State and the District Judges within whose jurisdiction such assets are situate."

14.1 When an application under Section 276 of the Act is submitted for probate or for letters of administration with will, if any objection is raised by anybody with respect to execution of the will, in that case, the applicant is required to prove the will and thereafter the will shall be probated and the court may pass an order for letters of administration. However, in a case where a will has been proved or deposited in a court of competent jurisdiction situated beyond the limits of the State, whether within or beyond the limits of



India, in that case, as provided under Section 228 of the Act, when a properly authenticated copy of the will is produced, the letters of administration may be granted in favour of such person. Meaning thereby, in such a situation, the will is not required to be proved again and it shall be conclusive. Therefore, Section 228 of the Act shall be an enabling provision **and it confers an additional right to apply for letters of administration on the basis of such authenticated copy of the will.** Therefore, as rightly observed by the learned Single Judge and the Division Bench that Section 228 is akin to Section 276 of the Act.

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17. Therefore, considering the law laid down by this Court in the case of Kunvarjeet Singh Khandpur (supra), **it can be said that in a proceeding, or in other words, in an application filed for grant of probate or letters of administration, no right is asserted or claimed by the applicant. The applicant only seeks recognition of the court to perform a duty. Probate or letters of administration issued by a competent court is conclusive proof of the legal character throughout the world. That the proceedings filed for grant of probate or letters of administration is not an action in law but it is an action in rem.** As held by this Court in the case of Kunvarjeet Singh Khandpur (supra), an application for grant of probate or letters of administration is for the court's permission to perform a legal duty created by a will or for recognition as a testamentary trustee and is a continuous right which can be exercised any time after the death of the deceased, as long as the right to do so survives and the object of the trust exists or any part of the trust, if created, remains to be executed. **Therefore, even if the will is probated by any court mentioned in Section 228 of the Act, right to get the letters of administration is a continuous right which can be exercised any time, as long as the right to do so survives and the object of the trust exists or any part of the trust, if created, remains to be executed.**"

[Emphasis Supplied]



8. In the case of ***Kunvarjeet Singh Khandpur Vs. Kirandeep Kaur and Others***³, the Supreme Court has explained that in a proceeding filed for grant of probate or letters of administration, no right is asserted or claimed by the applicant only a recognition of the Court to perform a duty is sought for. Relying on the judgment of ***S Krishnaswami and etc., vs. E Ramaiah***⁴ of the Madras High Court, it was held that probate or letters of administration issued by a competent Court is conclusive proof of the legal character throughout the world. The relevant extract of ***Kunvarjeet Singh Khandpur's case*** is set out below:

"17. In a proceeding, or in other words, in an application filed for grant of probate or letters of administration, no right is asserted or claimed by the applicant. The applicant only seeks recognition of the court to perform a duty. Probate or letters of administration issued by a competent court is conclusive proof of the legal character throughout the world. An assessment of the relevant provisions of the Indian Succession Act, 1925 does not convey a meaning that by the proceedings filed for grant of probate or letters of administration, no rights of the applicant are settled or secured in the legal sense. The author of the testament has cast the duty with regard to the administration of his estate, and the

³ (2008) 8 SCC 463

⁴ AIR 1991 Mad 214



applicant for probate or letters of administration only seeks the permission of the court to perform that duty. There is only a seeking of recognition from the court to perform the duty. That duty is only moral and it is not legal. There is no law which compels the applicant to file the proceedings for probate or letters of administration. With a view to discharge the moral duty, the applicant seeks recognition from the court to perform the duty. It will be legitimate to conclude that the proceedings filed for grant of probate or letters of administration is not an action in law. Hence, it is very difficult to and it will not be in order to construe the proceedings for grant of probate or letters of administration as applications coming within the meaning of an 'application' under Article 137 of the Limitation Act, 1963."

[Emphasis supplied]

9. In the ***Sanjay Khanduja's case*** it has been held that in terms of Section 41 of the Indian Evidence Act, a competent Court would thus include a foreign Court. As long as the probate or letter of administration granted by a competent foreign Court do not violate the laws of succession in India, it can be recognised in India.

10. It is the contention of the appellants that the duty of a Testamentary Court is only to find out whether or not the Testator executed the instrument of his own free will. Since the grant of a probate or letters of administration does not confer title to a property, it only enables the



administration of the estate, it is open for the same to be challenged. However, where there is no challenge made to a Will or objections raised and where a Will has been proved in a Court of competent jurisdiction, even though it is beyond the limits of the State, once that properly authenticated Will has been produced in India, the Will would not be required to be proved again.

11. Thus the parameters of a probate Court's jurisdiction would:

- (a) Be confined to considering the genuineness of the Will; and to examine whether an authenticated/apostilled copy of a Will is produced under Section 228 of the Succession Act;
- (b) Require to examine whether the testator executed the testamentary instrument of his free will;
- (c) Not permit considering (particularly in uncontested matters) the motive behind execution of a testamentary instrument; and
- (d) Not require to undertake an examination akin to a civil Court, since it does not confer title to property but can only enable the administration of the estate of the deceased.

12. An examination of the Impugned Order shows that the learned Trial Court has accepted the fact that the competent Court at Florida, being the Florida Probate



Court, has passed orders accepting both the probate of the Will of Mrs.Rashmi Constantino, as well as the probate of the Will of the deceased father of the appellants/petitioners Ronald E. Constantino. It also reflects that an apostilled copy of both these Wills have been produced before the learned Trial Court. It is also not in dispute that no opposition has been filed to the probate petition. Thus, there is clearly no impediment in the legitimacy of the documents or of the fact that the appellants/petitioners are entitled to the estate of their father and their late stepmother as well.

13. In view of the settled law that has been discussed above that a foreign judgment adjudicating testamentary rights under a Will is conclusive to the world at large, it cannot be assumed that the adjudication by a Court of foreign jurisdiction is not in order.

14. Once the fact of the probate is obtained from a Court of competent jurisdiction outside India has been established before the Court and duly apostilled copies of



the Wills were produced before the learned Trial Court, the probate could not have been rejected by the learned Trial Court. The learned Trial Court has however conducted a detailed inquiry in the matter in the manner as would have been done by a Civil Court examining the entitlement of the Schedule A and Schedule B properties of the appellants/petitioners. Such an examination cannot be sustained by this Court.

15. Accordingly, the appeal is ***allowed***. The Impugned Order is set aside and the appellants are entitled to the letters of administration in terms of the petition filed under Section 228 read with Section 278 of the Succession Act.

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

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

PN/YKL
List No.: 3 Sl No.: 6