



NC: 2026:KHC:15707-DB
MFA No. 1712 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2026

PRESENT

HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 1712 OF 2026 (ISA)

BETWEEN:

SHRI. ANAND MUTTALLI
S/O SRI. TIMMAPPA MUTTALLI
AGED ABOUT 40 YEARS,
ADDRESS NO. 29/4, TRADE CENTRE,
RACE COURSE ROAD,
BENGALURU - 560 001

...APPELLANT

(BY SRI. VAMSHI KRISHNA C., ADVOCATE)

AND:

NIL

...RESPONDENT

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA

THIS MFA IS FILED UNDER SECTION 299 INDIAN SUCCESSION ACT, 1925 AGAINST THE ORDER DATE 01.08.2025 PASSED IN P AND SC NO. 262/2024 ON THE FILE OF THE VI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCCH.11), DISMISSING THE PETITION FILED UNDER SECTION 276 OF INDIAN SUCCESSION ACT AS DEVOID OF MERITS.

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



ORAL JUDGMENT

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

1. This appeal is filed by the appellant under Section 297 of the Indian Succession Act, 1925 challenging the judgment/Order dated 01.08.2025 [hereinafter referred to as the "Impugned Judgment"] passed in P and SC No.262/2024 by the learned VI Additional City Civil and Sessions Judge, Bengaluru City [hereinafter referred to as the "Trial Court"].
2. By the Impugned Judgment, a petition under Section 276 of the Indian Succession Act, 1925, filed by the appellant (petitioner before the learned Trial Court) has been dismissed. The learned Trial Court has found that the Original Will has not been produced.
3. The learned counsel for the appellant/petitioner contends that the suit was filed in the year 2024 and that publication was issued in terms of the directions passed by the learned Trial Court. There was no appearance on



behalf of any party before the learned Trial Court in pursuance of the publication issued. However, the only reason the suit warranted dismissal was that, the appellant/petitioner has not produced the original Will.

4. Learned counsel for the appellant/petitioner further submits that, after the dismissal of the suit, the Original Will was obtained by the appellant/petitioner and that, as on date, it is in the custody and possession of the appellant/petitioner. She further submits that, she has filed an application, IA No.3/2026 under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the CPC") to place the Original Will on record. However, for the purposes of proving the attestation and execution of the Will, the procedure mandated under Section 68 of the Evidence Act, 1872 as well as Section 63 of the Indian Succession Act, would have to be followed. She submits that the Will in question is duly registered and thus carries a strong presumption of genuineness and due execution. Thus, it is contended that, she may be



permitted to produce the Will and the matter may be remanded to the learned Trial Court for proving the Will in accordance with law.

5. As stated above, no party has been arrayed as a respondent since nobody has come forward to challenge the Will before the Trial Court. There is no appearance before this Court to object either.

6. This Court has examined I.A.No.3 of 2026, which has been filed under Order XLI Rule 27 of the CPC. The applicant has stated that the original registered Will could not be placed, despite taking proper measures to discover the same and a certified copy of the Will has been placed on record before learned Trial Court, explaining the loss and affirming its execution. It further states that upon the demise of the Testator, the other Trustees of the Trust faced logical and technical challenges in gathering the relevant documents pertaining to the Trust and, Will and Testament could not be located in time to file the petition under Section 276 of the Indian Succession Act. However,



the same has been recently located. Hence, the appellant/petitioner be permitted to produce the original Will before this Court.

7. The judgment of the learned Trial Court reflects that the same has been passed essentially in view of the fact that, no original Will was produced by the appellant/petitioner. The learned Trial Court has thus held that, since the appellant/petitioner has not produced the original Will and has not examined the attesting witnesses, its execution cannot be proved in view of Section 68 of the Evidence Act, 1872 as well as Section 63 of the Indian Succession Act.

8. In these circumstances and given the fact that the Will has now been located, it would be expedient and necessary in the interest of justice that the appellant/petitioner be given one opportunity to prove the original Will before the learned Trial Court, especially,



since the petition for probate has only been filed recently
i.e. on 25.04.2025.

9. The appeal is accordingly ***disposed of*** permitting the appellant/petitioner to produce the original Will before the learned Trial Court, subject to the appellant/petitioner depositing an amount of Rs.2,500/- before the Karnataka Advocates' Welfare Fund.

10. The appellant/petitioner shall appear before the learned Trial Court on **15.04.2026** further proceedings.

11. In view of the order passed today, all pending applications if any, do not survive for consideration and are accordingly stand closed.

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

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

RS / YN
List No.: 1 Sl No.: 28