



CNR: KAHC010192492019

NC: 2026:KHC:54380
WP No. 29231 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 29231 OF 2019 (GM-CPC)

BETWEEN:

SRI. M. N. MOHAN KUMAR
S/O D. NANJUNDAIAH,
AGED ABOUT 50 YEARS,
R/AT NO.1178, 3RD CROSS
KURUBAGERI, IRWIN ROAD
LASHKAR MOHALLA
MYSORE - 570 001.

...PETITIONER

(BY SRI. VISWANATHA SETTY V, ADVOCATE)

AND:

SRI. RAKESH
S/O D. NANJUNDAIAH,
AGED ABOUT 38 YEARS,
OCCUPATION: AGRST & BUSINESS
R/AT D.NO.1178, 3RD CROSS,
KURUBARAGERI, IRVIND ROAD
LASHKAR MOHALLA
MYSURU - 570 001.

...RESPONDENT

(BY SRI. RAKESH M.N, PARTY IN PERSON)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER



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DTD 11.03.2019 PASSED BY THE PASSED BY THE III ADDL. DISTRICT AND SESSIONS JUDGE, ANEKAL IN P AND SC NO.5019/2018 ON THE APPLICATION FILED BY THE RESPONDENT UNDER ORDER 1 RULE 10(2) OF CPC VIDE ANNEX-R BY ALLOWING THE ABOVE W.P AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Captioned petition is directed against the order passed by the learned Court below on an application filed by the respondent, who appeared in person, seeking to come on record in the proceedings. The respondent is none other than the full brother of the petitioner.

2. The petitioner had instituted proceedings under Section 276 of the Indian Succession Act, 1925, in P&SC No.5019/2018, seeking grant of probate in respect of the testamentary instrument relied upon by him. In the said proceedings, the petitioner caused a paper publication inviting objections from persons interested in the estate.



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3. Pursuant to the paper publication, the respondent appeared before the probate Court and filed an application seeking to be impleaded. He specifically contended that the properties covered under the alleged Will are also the subject matter of a pending partition suit in O.S.No.588/2018. He also disputed the testamentary disposition relied upon by the petitioner and asserted his interest in the properties forming the subject matter of the probate proceedings.

4. The learned probate Court, having considered the objections raised by the respondent and having noticed that a partition suit in respect of the properties in question is pending adjudication, found that the respondent had a legitimate interest in the subject matter of the proceedings. Accordingly, the application seeking impleadment came to be allowed.

5. This Court finds no infirmity in the exercise of discretion by the learned probate Court. Once the petitioner had invoked the jurisdiction of the probate Court under Section 276 of the Indian Succession Act, 1925, and caused a paper publication, an interested person who comes forward pursuant thereto cannot be shut out from participating in the



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proceedings, particularly when such person asserts a direct interest in the estate and disputes the testamentary disposition.

6. The petitioner cannot seek an *ex parte* adjudication of the petition for grant of probate merely because the proceedings were initially instituted by him. The very purpose of issuing a citation or causing a paper publication is to afford an opportunity to persons having an interest in the estate to enter appearance and contest the claim, if so advised. In the present case, the respondent, being the petitioner's own brother, has appeared pursuant to the publication and has specifically asserted that the properties covered under the alleged Will are also the subject matter of the pending partition suit.

7. In these circumstances, the probate Court was justified in permitting the respondent to come on record. The petitioner cannot claim a right to obtain probate without the objections of an interested person being adjudicated, particularly when the respondent has raised a specific and substantial dispute



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concerning both the testamentary disposition and the properties forming the subject matter of the proceedings.

8. Therefore, the order impugned does not suffer from any jurisdictional error or perversity warranting interference under Articles 226 and 227 of the Constitution of India.

Accordingly, the writ petition stands ***dismissed***.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE