

IN THE HIGH COURT OF KARNATAKA, BANGALORE

ON THE 20TH DAY OF JULY, 2012

BEFORE

THE HON'BLE MR. JUSTICE RAVI MALIMATH

WRIT PETITION NO. 6811 OF 2012 (GM-CPC)

BETWEEN

J MOHAMMED RAFIQ
S/O LATE JAMAAL SAB
AGED ABOUT 41 YEARS
NO.138, II FLOOR, DHARMARAJA
KOIL STREET, SHIVAJINAGAR
BANGALORE-560 001
PRESENTLY AT NO.5,
ARMSTRONG ROAD
BANGALORE-560 001

... PETITIONER

(BY SRI S SHAKER SHETTY, ADVOCATE)

AND

1. K S PANDURANGA SETTY
PROP M/S SHYAMALA STEEL CENTRE
NO.138, D K STREET
SHIVAJINAGAR
BANGALORE-560 001
2. SMT K P BHARATH MATHA
PROPRIETRIX: SHYAMALA & SHYAMALA ENGG
COMPANY GROUND FLOOR & I FLOOR
NO.138 D K STREET
SHIVAJINAGAR BANGALORE-560 001

... RESPONDENTS

(BY SMT DEEPASHREE, ADVOCATE)

THIS WP FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER PASSED BY THE XVIII ADDL. CITY CIVIL JUDGE, MAYO HALL UNIT, BANGALORE PASSED ON THE APPLICATION UNDER ORDER 18 RULE 3 OF CPC R/W SECTION 151 OF CPC IN OS NO.26530/2007 DTD.18.2.12 VIDE ANNEX-E ACCPRDING TO LAW AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The respondents/plaintiffs filed a suit for specific performance and consequential reliefs. During the pendency of the suit, an application was made by the defendant under Order XVIII Rule 3 read with 151 of the Code of Civil Procedure, seeking to discard the evidence of P.W.2. The Trial Court by the impugned order rejected the same. Hence, the present petition.

2. Heard counsels.

3. P.W.1 was examined as power of attorney holder of the plaintiff. Thereafter, P.W.2 has also been examined as power of attorney holder of the plaintiff. Hence, an application was filed objecting to the same. The Trial Court held that the provisions of Order XVIII Rule 3 of the Code of Civil Procedure are not applicable with regard to discard

of evidence. It further held that P.W.1 has already been examined as General Power of Attorney Holder and cross-examined. P.W.2 is also a General Power of Attorney holder of the plaintiff, who speaks about the documents Ex.P3 and Ex.P4. Since there is no bar on a General Power of Attorney Holder to admit the same, I find no error committed by the Trial Court that calls for interference.

4. For the aforesaid reasons, the petition being devoid of merits is dismissed.

**Sd/-
JUDGE**

Msu