

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 21<sup>ST</sup> DAY OF NOVEMBER, 2013

BEFORE

**THE HON'BLE MR.JUSTICE H.N.NAGAMOHAN DAS**

CRIMINAL PETITION NO.5128/2010

**BETWEEN:**

MR R.SUNDARARAJAN,  
S/O.LATE R.RAJAGOPAL,  
AGED ABOUT 52 YEARS,  
R/AT NO.E902, "MANTRI ELEGANCE",  
BEHIND SHOPPERS STOP,  
BANNERGHATTA ROAD,  
BANGALORE-560 076.

... PETITIONER

(BY SRI ASHOK.B.PATIL, ADV.)

**AND:**

1. MR.D.H.BRITTO,  
S/O.G.S.BRITTO,  
AGED ABOUT 51 YEARS,  
R/AT NO.104, 1<sup>ST</sup> FLOOR,  
VIDYANAGAR, OPP. S.K.F,  
BOMMSANDRA, ATTIBELI HOBLI,  
ANEKAL TALUK,  
BANGALORE RURAL DISTRICT.
2. MRS.RENUKA BRITTO,  
W/O.D.H.BRITTO,  
AGED ABOUT 45 YEARS,  
R/AT NO.104, 1<sup>ST</sup> FLOOR,  
VIDYANAGAR, OPP. S.K.F,

BOMMASANDRA, ATTIBELI HOBLI,  
ANEKAL TALUK,  
BANGALORE RURAL DISTRICT.

OFFICE: SECRETARY IN PURCHASE  
DEPARTMENT, S.K.F. BEARINGS LTS.,  
BOMMASANDRA, HOSURROAD,  
ATTIBELE HOBLI, ANEKAL TALUK,  
BANGALORE RURAL DISTRICT.

3. SHRI K.V.VENKATARAMAIAH,  
S/O.K VENKATAPPA,  
AGED ABOUT 66 YEARS,  
R/AT NO.57, DADDY'S GARDEN LAYOUT,  
KAMMASANDRA VILLAGE,  
ELECTRONIC CITY POST,  
ATTIBELI HOBLI, ANEKAL TALUK,  
BANGALORE RURAL DISTRICT.
4. SHRI K.V.NARENDRA BABU,  
S/O.K.V.VENKATARAMAIAH,  
AGED ABOUT 40 YEARS,  
R/AT NO.57, DADDY'S GARDEN LAYOUT,  
KAMMASANDRA VILLAGE,  
ELECTRONIC CITY POST,  
ATTIBELI HOBLI, ANEKAL TALUK,  
BANGALORE RURAL DISTRICT.
5. SHRI H.NAGARAJ,  
S/O.HANUMAPPA,  
R/AT HEBBAGODI,  
ATTIBELI POST, ANEKAL TALUK,  
BANGALORE RURAL DISTRICT.

... RESPONDENTS

(BY SRI T.K.RAJAGOPALA, ADV. FOR R3 & R4  
SRI J.T.RAJAN, ADV. FOR R1, R2 & R5)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO SET ASIDE THE ORDER DT.5.10.10 PASSED BY THE COURT OF II ACMM, BANGALORE, ALLOWING I.A. UNDER SEC.311 CR.P.C. RECALLING PW-1/COMPLAINT FOR MAKING THE JUDGMENT IN O.S.NO.1993/06 AND DISMISS THE SAME IN C.C.NO.22866/2006.

THIS CRIMINAL PETITION COMING ON FOR HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

### ORDER

The petitioner filed a private complaint in PCR No.12311/2006 against the respondents for the offences punishable under Sections 465, 467, 468, 471, 417, 420 & 421 r/w Sections 120-B and 34 of IPC. The Jurisdictional Magistrate registered the case, recorded the sworn statement and had taken a cognizance of the complaint. After the evidence of petitioner, the respondents filed an application to recall the petitioner for the purpose of confronting and marking a Judgment passed in O.S.No.1993/2006. After hearing both the parties, under the impugned order dated 05.10.2010, the Trial Court allowed the application filed by the respondents under Section 311 of Cr.P.C and recalled

PW.1 for further evidence. Aggrieved by this order of the Trial Court, the petitioner is before this Court.

2. Heard, learned counsel for the petitioner and perused the entire petition papers.

3. It is not in dispute that the petitioner filed O.S.No.1993/2006 against the respondents for cancellation of the sale deed and for other reliefs and the same came to be dismissed. The respondents want to mark this judgment by confronting the same to PW.1 since, he is a party to the judgment. Under the impugned order, the Trial Court recalled PW.1 for marking this Judgment. Under the impugned order no prejudice has been caused to the petitioner.

4. The learned counsel for the petitioner contends that the judgment in O.S.No.1996/2006 came to be reversed by the Lower Appellate Court in RA No.296/2010 and further this Court confirmed the same in RSA No.1643/2011. It is always open for PW.1 to bring these additional developments

on record in his evidence. In the circumstances, I find no illegality in the impugned order.

Accordingly, the petition is hereby disposed of.

**Sd/-  
JUDGE**

VM