IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 14TH DAY OF MARCH 2012

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

W.P.Nos.61666 & 62059/2012 (GM-CPC)

BETWEEN:

SIDDAPPA S/O. KARIYAPPA PUJAR,
AGE: 44 YEARS, OCC: BUSINESS,
R/O. VIDYANAGAR,
HAVERI. ... PETITIONER

(By Sri SURESH N. KINI, ADV.)

AND

1. BASAVARAJ S/O. PUTTAPPA PUJAR
@ GORAPPANAVAR,
AGE: 33 YEARS,
OCC: BUSINESS,
R/O. VIDYANAGAR, HAVERI,

2. MALATI M. BOGALI
AGE: 46 YEARS,
OCC: HOUSEWIFE,
R/O. VIDYANAGAR, HAVERI.

3. VIDYALAXMI W/O. K. HARISH
AGE: 42 YEARS,
OCC: HOUSEWIFE,
R/O. 3680/14, ANJALI NILAYA,
HOUSING BOARD COLONY,
MEDICAL HOSTEL ROAD,
DAVANGERE.

4. ANITA W/O. SIDDALINGAPPA HONNAPPANAVAR
AGE: 40 YEARS, OCC: HOUSEWIFE,
R/O. NEAR GURUBHAVAN, RAJENDRA NAGAR,
HAVERI.

5. SAROJA W/O. SATISH MAJJAGI
AGE: 38 YEARS, OCC: HOUSEWIFE,
R/O. JOGG YELLAPURA,
DHARWAD.

6. M/S. TATA MOTRS,
BELLAD ENGINEERING,
C/O. VIDYANAGAR, P.B.ROAD,
HAVERI.

7. M/S. MAHALAXMI STEEL CENTRE,
PROP. BABULAL CHAUDARY AND BROTHERS,
C/O. P.B. ROAD,
HAVERI.

8. M/S. HINDUSTHAN AUTO WORKS,
PROP. SALEEM.
C/O. P.B. ROAD,
HAVERI.

9. M/S. K. BABU CEMENT WORKS,
C/O. P.B. ROAD,
HAVERI.

10. M/S. BABUJAAN TYRE WORKS,
C/O. P.B. ROAD,
HAVERI.

11. M/S. KHADRI AURO WORKS,
C/O. P.B. ROAD,
HAVERI. ... RESPONDENTS

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED:13/02/2012 IN O.S.NO.14/2008 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,

HAVERI ON I.A.NO.14 AND 15, PRODUCED AT ANNEXURE-G, AND ETC.

THE PETITIONS COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner is essentially aggrieved by the order dated 13.02.12 passed by the court below in O.S.14/2008, permitting the plaintiff to produce a certified copy of the Will dated 24.11.1993 said to have been registered by the testator bequeathing 4/9th share of the suit schedule property in favour of the plaintiff.

2. In the affidavit filed in support of the application seeking permission to produce the said document, the plaintiff contended that the original Will was stolen and therefore, the plaintiff was not in a position to produce the original document and hence having secured the certified copy of the same he had produced the said document. This application was resisted by the 1st defendant-petitioner herein. The Court below has allowed the application referring to the provisions contained under Order 8 Rule 1(a) CPC granting permission to produce the said document.

3. I have heard the learned Counsel for the petitioner and perused the impugned order and pleadings.

4. The court below has considered the affidavit averments made by the plaintiff in support of his application and taking note of the fact that he was producing the certified copy of the registered document, has permitted him to produce the same by specifically observing that the other party will have to cross-examine the witnesses about the said document. It is the burden of the plaintiff to establish the said document and the defendant/petitioner will be entitled to cross-examine the respondent/plaintiff in this regard. Therefore, I do not find any prejudice caused to the plaintiff by the impugned order. At any rate, it cannot be stated that the order suffers from apparent illegality or error of jurisdiction.

Hence, the writ petition is dismissed.

Sd/-
JUDGE

Sub/