

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**DATED THIS THE 12<sup>TH</sup> DAY OF FEBRUARY 2014**

**BEFORE**

**THE HON'BLE MR. JUSTICE A S BOPANNA**

**WRIT PETITION NO.48247/2013(GM-ST/RN)**

**BETWEEN:**

H.V. MIRCHANDANI,  
S/O. LATE VISHNIDAS  
KALACHAND MIRCHANDANI  
AGED ABOUT 88 YEARS,  
R/AT, 3 NEELKANTH APARTMENTS,  
62 WORLI HILL ROAD,  
MUMBAI-400018,  
REPRESENTED BY HIS  
GENERAL POWER OF ATTORNEY HOLDER  
MR. BIMAL NARAIN BHAVANANI.

**... PETITIONER**

(BY SRI.GOVINDARAJU.L, ADV.)

**AND:**

1. THE INSPECTOR  
GENERAL OF REGISTRATION  
AND COMMISSIONER OF STAMPS,  
7<sup>TH</sup> FLOOR, BWSSB WING,  
CAUVERY BHAVAN, K.G. ROAD,  
BANGALORE-560001.
2. THE DISTRICT REGISTRAR,  
DEPARTMENT OF REGISTRATION AND STAMPS,  
4<sup>TH</sup> BLOCK, 12<sup>TH</sup> MAIN ROAD,  
JAYANAGAR,  
BANGALORE-560011
3. THE SUB-REGISTRAR,  
BDA COMPLEX,  
KORAMANGALA,  
BANGALORE-560034.

4. M/S SIRI DEVELOPERS,  
REPRESENTED BY ITS PROPRIETOR:  
RAJESH REDDY,  
AGED 45 YEARS,  
S/O. LATE KOTE CHINNAPPA REDDY,  
NO. 178/A, 9<sup>TH</sup> MAIN,  
14<sup>TH</sup> CROSS, H.S.R. LAYOUT VI SECTOR,  
BANGALORE-560102.
5. VIGNESH. K.D.  
S/O. K.M. DEVAIAH,  
AGED ABOUT 43 YEARS,  
R/AT E-103, MANTRI WOOD LANDS,  
BANNERGHATTA ROAD, AREKERE,  
BANGALORE-560076.

**... RESPONDENTS**

(BY SRI VIJAYAKUMAR. A. PATIL, HCGP FOR R1-3  
SRI. SARATH CHANDRA BIJAI, ADV FOR R4 & 5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, WITH A PRAYER TO QUASH THE SALE DEED DATED.25.09.2013 REGISTERED BY THE R3 AS FRAUDULENT AND INOPERATIVE ANNEXURE-D, AND ETC.

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

### **ORDER**

The petitioner is before this Court seeking that a writ in the nature of certiorari be issued and the sale deed dated 25.09.2013 be quashed. The alternate prayer of mandamus to consider the petitioner's representations at Annexures-J, K and L is also sought.

2. The brief facts to be noticed for the purpose of disposal of the instant petition is that the petitioner

contends that he is the owner of the property described in the schedule to the petition. The grievance of the petitioner is that the persons who are unconnected with the property and without authority from the petitioner have illegally transacted and sold the property to respondents No. 4 and 5 by the sale deed dated 25.09.2013. The petitioner on learning that his property has been sold in such manner has made representations to respondent No.3 seeking cancellation of the sale deed. Since the said representations had not been considered, the petitioner is before this Court.

3. At the outset it is to be noticed that at the time of issuing notice to the respondents, learned Government Advocate had raised a preliminary objection that the prayer made in the writ petition for quashing the sale deed cannot be granted in a writ petition since the petitioner would have to avail appropriate remedy by filing a suit where all disputed questions would be considered.

4. Learned counsel for the petitioner had however contended that respondents No. 4 and 5 themselves have made certain statements in the criminal proceedings with regard to respondents No. 4 and 5 being cheated by a person who had sold the property.

5. In order to ascertain that aspect of the matter, notice to respondents No. 4 and 5 had also been issued. Respondents No. 4 and 5 are represented by their learned counsel. Learned counsel would point out that the prayer made in the instant petition cannot be granted and he desires to file a detailed objection statement.

6. The above narrated sequence would indicate that in the event of respondents No. 4 and 5 filing their objection statement disputing the claim of the petitioner, the determination of the factual aspects would arise, which cannot be made in a writ petition. Therefore, this alone is sufficient for this Court to dispose of the instant petition by allowing liberty to the petitioner to avail his remedies in accordance with law

as the prayer made cannot be granted in a writ proceedings.

Accordingly, the petition is disposed of with liberty to the petitioner to avail his remedies in accordance with law.

**Sd/-  
JUDGE**

hrp/bms