

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18<sup>TH</sup> DAY OF JULY, 2011

BEFORE

THE HON'BLE MR. JUSTICE K. SREEDHAR RAO

Writ Petition No. 21383 of 2011 (GM-CPC)

**BETWEEN:**

M. N. Nirmala,  
D/o. Muniswamy Naik,  
Aged about 45 years,  
R/at. Maheshwaramma Gudi Beedhi,  
1st Division, Yelahanka,  
Bangalore - 560 064,

Represented by her GPA holder,  
Sri. Muniswamy Naik,  
S/o. Late Muniyappa,  
Age: 81 years,  
R/at. Mudenahalli Village,  
Nandi Hobli,  
Chikkaballapur Taluk and District.

... Petitioner

(By Sri. G. R. Lakshmi pathy Reddy, Adv.)

**AND**

1. G. R. Vasu Kumar ,  
S/o. Late G. M. Rudraiah,  
Aged about 57 years,  
R/at 3<sup>rd</sup> Division,  
Nehru Nagar, Yelahanka Town,  
Bangalore North Taluk.



2. Smt. G. R. Lalitha,  
W/o. Gangadhara,  
Aged 61 Years,  
R/at No. 114,  
Krushi Bhavan, VI Cross,  
Gandhinagar,  
Bangalore – 560 009.
3. Sri. Munithimmaiah,  
S/o. Late Thirumalappa  
Since deceased represented by his LR's  
Along with second defendant
- 3(a) Smt. Gullamma,  
W/o. Late Munithimmaiah,  
Aged about 85 years,  
R/at No. 38, Maruthinagar, Yelahanka,  
Bangalore-560064
- 3(b) Smt. Lalithamma,  
D/o. Late Munithimmaiah,  
Aged about 65 years,  
R/at Maheshwaramma,  
Gudu Beedhi. 1<sup>st</sup> Division,  
Yelahanka, Bangalore – 560 064.
- 3(c) Smt. Nagarathnamma,  
D/o. Late Munithimmaiah,  
W/o. Munivenkatappa,  
Aged about 58 years,  
R/at No. 48, Maruthi Nagar,  
Kogilu Road, Yelahanka,  
Bangalore – 560 064.
- 3(d) Smt. Renuka,  
D/o. Late Munithimmaiah,  
W/o. Jayashekar,  
Aged about 45 years,  
R/at No. 38, Maruthi Nagar,  
Kogilu Road, Yelahanka,  
Bangalore – 560 064.



4. T. Anjanappa,  
S/o. Munithimmaiah,  
Aged about 34 years,  
Both are residing at 1<sup>st</sup> Division,  
Nehru Nagar, Yelahanka,  
Bangalore North Taluk.

.. Respondents

(By Sri. Lakshmish G, for  
M/s. L G Associates, Advs. for R.1 & R.2,  
Notice to R.3(a) to (d) and 4 dispensed  
with vide order dated 18/07/2011)

This Writ Petition filed Under Articles 226 and 227 of Constitution of India praying to quash the impugned order dated 19.4.2011 in OS.No.439/94 on the file of II Addl. Senior Civil Judge, Bangalore Rural District Bangalore Vide Ann-F to this WP and grant interim order to stay the further proceedings in OS.No.439/94 on the file of II Addl. Senior Civil Judge, Bangalore Rural District, Bangalore Vide Ann-F to this WP.

This Writ Petition coming on for Preliminary Hearing, this day, the Court made the following:

**ORDER**

The petitioner is the third defendant in the suit. The respondents have filed the suit for declaration of title in respect of land in Sy.No.55/6 measuring 0.19 guntas. It is not in dispute that the petitioner-defendant-3 sold the said land to the plaintiffs. The



measurement of land in the sale deed is shown as 0.19 guntas. It is the contention that the defendant after survey it is found that the measurement is only 0.15 guntas. Therefore an agreement to that effect was entered into between the parties, after registration of the sale deed acknowledging the fact by the plaintiff that the extent of land purchased is only 0.15 guntas and that the sale price is proportionately paid in respect of 0.15 guntas and not for 0.19 guntas.

2. There is an averment in the said agreement that 0.4 guntas of land belongs to Munithimmaiah who is the vendor of the plaintiffs and that the plaintiffs are not making any claim over 0.4 guntas.

3. The defendants wanted to get the said agreement marked in evidence. The trial Court rejected marking of the said document on the ground that it is insufficiently stamped and require registration. The understanding of the trial Court is improper. In the document there is no transfer of any interest in the immovable property.



The agreement only acknowledges the fact of true extent of land that is sold to the plaintiff. The said agreement does not require registration. The said agreement cannot be rejected as inadmissible for want of registration and improper stamping.

4. Accordingly the writ petition is allowed. The order of the trial Court is set aside. The trial Court is directed to permit the petitioner to produce the agreement and mark in evidence.

Sd/-  
JUDGE

Vb/-