

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.395 OF 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is filed challenging the order passed by the VI Additional District Judge, Sompeta, in I.A. No.315 of 2015 in O.S. No.12 of 2014 dated 04.11.2015 whereby the petition filed under Rule 8 of Order XII of the Code of Civil Procedure (for short, 'CPC'), to cause production of the document dated 24.04.2006, which is allegedly executed between the petitioner and the respondents, was dismissed.

It is the case of the petitioner that the un registered family arrangement dated 24.04.2006 is with the defendants 2 to 4 and the second respondent/first defendant, and it is necessary to decide real controversy between the parties and requested to pass an order to cause production of the said document. Respondents denied possession of such document, besides raising several other contentions, by filing separate counters. The trial court dismissed the petition on the ground that the respondents were not in possession of such document, and they cannot be compelled to produce the same. Undisputedly, the documents sought to be produced is only an unregistered family arrangement deed dated 24.04.2006 and if the original is not available with the respondents as contended by them, the petitioner can produce copy of the same subject to satisfying the requirements to adduce secondary evidence, laying foundation in the pleadings itself. But the respondents cannot be compelled to produce the original of family arrangement deed dated 24.04.2006 when they are contending that they are not in a possession of the said document. Therefore, the trial court rightly dismissed the petition and I am totally in agreement with the order passed by the trial court, but in view of the limited scope of this Court under Article 227 of the Constitution vide Judgment of the Apex Court in **HARI VISHNU KAMATH VS. SYED**

AHMAD ISHAQUE AND OTHERS^[1], this court cannot interfere with the order passed by the trial court, however, it is left open to the trial court to draw necessary inference under Section 114 of CPC, if the circumstance permits.

With the above observation, the revision is dismissed. No costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 10.06.2016

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^[1] 1955 1 SCR 1104