

IN THE COURT OF THE CIVIL JUDGE & JMFC,
AT SANDUR

:: PRESENT ::

Sri. Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur

Dated: 17th day of July 2025

O.S. No.114/2018

Plaintiff/s : Kurubara Kalgudeppa,
S/o Lingappa,
Age: 56 years, Occu: Agriculturist,
R/o Kurekuppa Village,
Sandur Taluk, Ballari District.

(By Sri. U.T.P., Advocate)

V/S

Defendant/s : 1. The State of Karnataka,
Represented by the Deputy Commissioner,
Ballari.

2. The Assistant Commissioner – cum-
Land Acquisition Officer,
Ballari.

3. The National Highway Authority,
NH 63, No. 678/3, Neerubhavi,
Kempanna Layout, Hebbal,
Bengaluru-560024.

4. The National Highway Authority,
NH 63, Office at Opp: NCC Office,
Near Sudha Cross, Cantonment,
Ballari town,
Ballari Taluk and District.
5. The Executive Engineer,
Public Works Department, Fort,
Ballari.
6. The Assistant Executive Engineer,
Public Works Department,
Hosapete.
7. The Assistant Executive Engineer,
Karnataka Urban Water Supply and
Drainage Board Sub-division,
Hosapete.
8. The Divisional Engineer,
KRDCL, Hosapete Division.

(D-1 to 6 By Sri. A.G.P.)

(D-7 By Sri. G.M. Advocate)

(D-8 By Sri. Y.R.R. Advocate)

I.A.No.III

Applicant : Kurubara Kalgudeppa S/o Lingappa
(Plaintiff)

V/s

Opponent : The State of Karnataka,
Rep. By Deputy Commissioner,
Ballari and Others.
(Defendant No.1 to 8)

ORDER ON I.A.No.III FILED UNDER ORDER XXXIX RULE 1
AND 2 R/W Sec. 94 AND 151 OF C.P.C.

The plaintiff has filed this application U/O XXXIX Rule 1 and 2 R/w Sec. 94 and 151 of C.P.C., seeking to restrain defendant no.1 to 8 from carrying out their illegal work in the suit schedule property, till the disposal of the suit.

2. The plaintiff is the absolute owner of agricultural land bearing Sy. No.417 measuring 1.85 acres situated at Kurekuppa village, Sandur Taluk, by virtue of inheritance from his ancestors. The plaintiff and his family members being agriculturist are leaving from the agricultural income.

3. It is stated that the defendant No.2 in its proceedings no.2/1996-97 Dt: 22-11-1999 in Sl. No.46 for the purpose of widening the road has acquired the suit land to the extent of 0.74 acres out of 1.85 acres in land Sy.No.417. But the defendant no. 2 in its report has not mentioned agricultural produce in the suit land. In fact, there is a Well which is being used for cultivating the land. Under these circumstances, the defendant No.3 to 7

proceeding work in the suit land for establishing public road and pipeline and for widening the road. The said pipeline is passing through the middle of the well. At the time of acquisition, the defendant No.2 has not verified and inspected the land. The representatives of defendant No.2 have filed false report stating that there are no trees and well.

4. The defendants are continuing their work, even after the objection raised by the plaintiff. The defendants are hurriedly continuing with their work. If the sad work is completed, great loss will be caused to him in agricultural work. The plaintiff and other land owners approached defendants and requested to stop the work, but the defendant highhandedly continuing with their work in the suit land. Therefore, the plaintiff is constrained to file this application. It is submitted that the plaintiff has established prima facie case, and balance of convenience is in his favour. If the application is not allowed, irreparable loss will be caused to him. On these grounds he prays to allow the application.

5. After service of summons, Lrd. AGP appeared for

defendant no.1 to 6. The defendant no.2 filed written statement. However, he did not file objections to present application.

6. In the written statement, the defendant No.2 denied all the allegations made against the defendants in the plaint. It is submitted that the land in question is acquired by the Land Acquisition Officer (LAO) for public purpose for providing pucca Road from Thoranagal to Sandur, as the present road is witnessing heavy traffic and is narrow to accommodate heavy vehicles. The project is initiated by PWD after JSW steel plant started functioning. Visualizing the heavy traffic and congestion the authorities have planned in the year 1998-99 and initiated acquisition proceedings for providing parallel broad road after following procedures as laid down under Land Acquisition Act. It is further submitted that the award has been passed by Assistant Commissioner and LAO, Ballari in Proceeding no.2/1996-97 Dt: 22-11-1999. However, the construction of road could not commence owing to certain procedural aspects. Now, the KRDCL is entrusted with the project to undertake construction of road

work. When the work has been started, the present suit after lapse of 19 years is barred by limitation. The plaintiff without questioning the acquisition proceedings before proper forum is seeking the relief of injunction. Further, the compensation has already been awarded, but the plaintiff did not appear before the office of LAO for receiving the compensation. As such, the compensation amount has been deposited in Revenue Deposit. Furthermore, the LAO clearly recorded that the land to the extent of 0.74 acres out of 1.85 acres in land Sy.No.417A/2 has no trees, structure or Well. The existence of Well and trees is not recorded in Column no.8 of record of rights. The plaintiff without filing reference application for enhancement of compensation under section 18 of Land Acquisition Act has filed this suit for bare permanent injunction. The plaintiff has no right either to stop the ongoing work or to file a suit for injunction. Amongst other grounds, the defendant No.2 prays to dismiss the application.

7. Heard the argument of learned counsel for the plaintiff and Lrd. AGP. Perused the records.

8. The points that arise for my consideration are:-

1. Whether the applicant proves that he has *prima-facie* case in his favour to the grant the interim relief as sought for?
2. Whether the applicant proves balance of convenience in his favour?
3. Whether the applicant proves that he would suffer irreparable loss if injunction is not granted as sought for?
4. What order?

9. My answer on the above points are as follows:-

- Point No.1** : In the Negative
Point No.2 : In the Negative
Point No.3 : In the Negative
Point No.4 : As per final order
for the following:-

REASONS

10. **POINT NO.1 TO 3:-** All these points are taken together for common discussion to avoid repetition of facts and appreciation of materials on records.

11. This suit is instituted by the plaintiff for the relief of permanent injunction seeking to restrain the public authorities

i.e., defendants from widening the road and making pipe line in the suit land.

12. Admittedly, the defendant no.2 has acquired the suit land bearing Sy.No.417 to the extent of 0.74 acres (out of 1.85 acres) situated at Kurekuppa village Tq: Sandur, and awarded compensation which is not withdrawn by the plaintiff, as contended by the defendant no.2. The acquisition of land took place vide notification Dt:22/11/1999.

13. On bare perusal of the contentions raised by the plaintiff, it appears that he is not satisfied with the compensation awarded by defendant no.2 and also on the report given by JMC report. He mainly contend that the pipe line proposed to be laid pass through the Well situated in the suit land, and further, the report given by the representatives of defendant no.2 shows that there are no trees, Well and adjacent agricultural land. The defendant no.2 contend that there are no trees, structure or Well in the suit land. The plaintiff questions the acquisition proceedings mainly on these grounds. Right from the date of

acquisition notification till date, the plaintiff did not challenge the acquisition proceedings or the observations made in the JMC report. But, instead of challenging the proceedings or the quantum of compensation awarded before proper forum, the plaintiff filed this suit. The plaintiff lack locus standi and there is no arguable case in his favour.

14. The plaintiff concede that the defendant no.2 acquired the suit land for the purpose of widening the road. The defendant no.2 has elaborated why the acquisition proceeding are initiated. Considering those aspects, injunction cannot be granted as the court is barred to do so under Sec.41(h) and (ha) of Specific Relief Act, 1963. The plaintiff failed to establish prima facie case in his favour. Therefore, the other two ingredients for grant of injunction need not be discussed. Hence, this court answers Point No.1 to 3 in the **NEGATIVE**.

15. **POINT NO.4:-** In view of the above findings and discussions, I proceed to pass the following:-

ORDER

IA. No.III filed by the applicant– plaintiff
U/O XXXIX Rule 1 and 2 R/W. Sec. 94 and 151
of C.P.C., is hereby dismissed.

The observations made in this order shall
not come in the way of, affect or cause
prejudice to the rights of the parties to prove
their case by leading evidence during the trial.

*(Directly typed on Laptop, the same is corrected, revised, signed
and then pronounced by me in the open Court, the 17th day of July-
2025).*

(Md. Shaiz Chouthai)
Civil Judge & J.M.F.C., Sandur.