

KADW400004002023



IN THE COURT OF CIVIL JUDGE & JMFC.,
KUNDAGOL
PRESENT

Smt. Gayatri.,

B.Com.,LL.M.(IPR)

Civil Judge & JMFC Kundagol.

Dated this the 22nd day of April, 2026

O.S. No.48/2023

PLAINTIFF

: Wind World India Ltd.,
Represented by its Asst
Manager & Authorized person
Mr. Rajashekaraiiah
Age: About 43 years,
Asst Manager,
Wind World India Ltd.,
having branch office at
Door No.240, Vivekanand
Nagar, Opposite to Sri. Saibaba
Temple, Beside P&T Quarters,
Hatalgeri Road, Gadag-582101.

-V/s-

DEFENDANTS

: 1. Allabax
S/o. Chandusaba Sethasanadi,
Age: About 47 years,
R/o. Hirebudihala,
Tq: Kundagol, Dist: Dharwad,
and others.

PARTIES TO I.A. NO.9

Applicant/ : 33. Ashok
Defendant No.33 S/o. Veeranagouda Huded
-V/s-

Opponent/ : 1. Wind World India Ltd.,
Plaintiff Represented by its Asst
Manager & Authorized person
Mr. Rajashekaraiiah

ORDER ON I.A. NO.9

The Applicant/Defendant No.33 and 47 have filed I.A. No.9 under Order VII Rule 11 R/w Section 151 of CPC praying for rejection of plaint.

2. Per contra, learned counsel for Plaintiff has filed detailed objections and has prayed for dismissal of application.

3. Heard and perused.

4. The following points arise for this court's consideration;

POINTS

1 Whether the Applicant/Defendant No.33 and 47 have made out sufficient grounds for rejection of Plaint?

2 What order?

5. This court findings on the above points for consideration are as under:

Point No.1 : In the **Affirmative**,

Point No.2 : As per final order, for the following:

REASONS

6. Point No.1:- The present suit is filed by the Plaintiff against Defendants for the relief of Permanent Injunction along with Court costs. The present application is filed by Applicant/Defendant No.33 and 47 praying for the rejection of plaint contending that, as per Section 67 and 68 of Electricity Act and as per Section 10 and 11 of Telegraphic Act, 1885 this Court lacks jurisdiction to try the suit, as such has prayed for allowing the application.

7. Per contra, learned counsel for Respondent/Plaintiff has filed detailed objections contending that, the application filed by Applicants is by misconceiving this Court. The application is untenable and is liable to be rejected at the threshold. The Respondent/Plaintiff has contended that, this Court has got vested jurisdiction to try the suit of present nature. Plaintiff has contended that, it is the Civil Court where the grievance pertaining to the wrongful obstruction, trespass or interference with the property rights of Plaintiff can be dealt with. The Plaintiff company has also alleged that, the alleged remedy before the District Magistrate under Section 16 of the Telegraphic Act is not exclusive in cases where civil rights are infringed. It is also submitted that, the Plaintiff is entitled to approach this Court for preventive relief against unlawful acts by the Defendant. The contention that, the suit is not

maintainable under the Telegraph and Electricity Act is wholly without merit, as the Plaintiff's claim is based on protecting possession and lawful enjoyment of property which is within the jurisdiction of this Court. The framing of preliminary issue at this stage would cause unnecessary delay and prejudice to the Plaintiff. The issue of jurisdiction if at all can be determined along with other issues after evidence is recorded. Therefore, has prayed for dismissal of IA filed by the Applicant/Defendants.

8. Learned counsel for Plaintiff has submitted that, this Court has jurisdiction to try the suit as it is filed for the relief of Permanent Injunction. Learned counsel for Defendant No.33 and 47 has drawn the attention of this Court towards the provisions of Telegraph and Electricity Act,. On careful perusal of pleadings, the nature of relief sought by the Plaintiff is Permanent Injunction. The subject matter in respect of present suit is the electrical poles with transmission lines operating and maintaining the electric poles which are standing in the Survey No.129/3 of Hirebudihal village, Kundagol taluka, Survey No.2/1, 2/2, 2/3, 129/2 and 139/1B+2 of Budihal village, Kundagol taluka, Survey No.177/3, 118/2, 144/1, 153/2, 70/1 and 70/3 of Kubihal village, Kundagol taluka, Survey No.88/4, 61/3 and 36/3 of Tariyaghatta village, Kundagol taluka, Survey No.36/3, 253/2, 253/3 and 80/1B of Ingalagi village, Kundagol taluka, Suvey No.56/3, 38/3 of Bu.

Koppa village, Kundagol taluka, Survey No.48, 51/1, 59/6, 74/5, 34/3, 34/7, 50/4, 59/6, 72/3 of Thirta village, Kundagol taluka, Survey No.94/1, 97/6 of Jigaluru village, Kundagol taluka, Survey No.78/3, 130/2, 90/1, 56/2, 68/2, 56/4, 36 and 76/5 of Kunkuru village, Kundagol taluka, Survey No.80/4, 57/6 of Mattigatti village, and Survey No.9, 15, 19/1 and 21 of Hanumanahalli village of Kundagol taluka. On careful perusal of rival pleadings the matter is pertaining to supply of electricity through poles which is nothing but infrastructure project. It is clear that, Section 41 of The Specific Relief Act, as to when injunction can be refused attracts the suit relief. At the same this Court also finds that, the amended Section 20(A)(1) of Specific Relief (Amended) Act, 2018 attracts and which reads as under:

20A. (1) No injunction shall be granted by a court in a suit under this Act involving a contract relating to an infrastructure project specified in the Schedule, where granting injunction would cause impediment or delay in the progress or completion of such infrastructure project.

Explanation.— For the purposes of this section, section 20B and clause (ha) of section 41, the expression “infrastructure project” means the

category of projects and infrastructure Sub-Sectors specified in the Schedule.

9. On perusal of entire records available on the file of this Court it appears that, the suit of the Plaintiff company attracts infrastructure project as the suit is filed against Defendants for the relief of Permanent Injunction to restrain the Defendants from disturbing the routine work in the transmission line in the poles by the Plaintiff company employees including trimming the branches of the tree which are standing in the suit schedule property for free flow of electricity supply through the conductor situated over the suit schedule land. The subject matter of electricity comes within the schedule Sl. No.2 energy Clause (a) to (c) of the Amended Specific Relief Act, 2018.

10. The installation of electricity poles and service lines are in deed clarified as the infrastructure project. It is classified as significant legal infrastructures regarding the Courts power to grant injunction and also order to stop work. The Specific Relief Act, 1963 as amended in the year 2018 the schedule for infrastructure project explicitly includes the energy structure and it specially states that, no injunction shall be granted by a Court in suit involving a contract relating to the infrastructure project. The work 'Power' explicitly is listed in SL. No.2 of the Schedule. This Court does not find it just and proper to go into the merits

of the matter when it has reached to a conclusion that, this Court lacks jurisdiction. It is admitted that, the matter is in its stage of further chief of P.W-1. However, under Order VII Rule 10 of CPC, a Civil Court can return a suit for its presentation to a competent Court having jurisdiction at any stage of suit. It is clear that, as per Order VII Rule 10 of CPC, there is no bar for this Court to return the Plaint for its presentation before competent Civil Court even the trial has commenced and the evidence is partially recorded. I.A. No.8 is pending disposal and has not been disposed off by this Court due to the reason that, it has come to the notice of this Court that, in respect of present suit this Court lacks the jurisdiction over the subject matter of the suit. Hence, at this stage this Court needs to pass appropriate order to serve justice without proceeding further with the matter.

11. Though learned counsel for Plaintiff has in detail addressed his arguments on I.A. No.9 and also on maintainability of this suit before this Court. By going through the provisions of the Electricity Act, but this Court is satisfied with the grounds those made out by learned counsel for Defendant No.33 and 47 as to the facts of the present suit attracting infrastructure projects. This Court without going through the merits of the matter finds it just and proper to exercise its discretionary power to return the Plaint for its presentation before the jurisdictional Court.

12. On careful perusal of rival claims, it is the relief sought for by the Plaintiff under present suit is to restrain the Defendants from causing interference and obstructions for the free flow of electricity through the poles so already installed in the above mentioned survey number land. The dispute involved in the present suit is in respect of flow of electricity through the electricity poles so installed. The flow of electricity through poles is nothing but an infrastructure project in the interest of general public at large. Such being the nature of suit and the relief sought for by the Plaintiff through present suit, this Court relying upon the decision of Hon'ble High Court of Karnataka, Dharwad Bench dated 16.07.2024 in **Writ Petition No.102751/2024 (GM-CPC)**. Wherein the Hon'ble High Court has held that, the Notification for designation of Special Courts for such matter is not merely procedural but serves a substantive purpose in ensuring that these disputes are resolved with the requisite priority and expertise. It is also held that, to facilitate adherence to these directives, it is imperative that, upon realization or notification of a matter involving an infrastructure project, the presiding Civil Court must immediately transfer the case to the designated Special Court. This transfer should be carried out expeditiously to prevent any delays that Court adversely affect the resolution of the dispute. The designated Special Court, as specified in the statutory frame work and corresponding

circulars, will have the exclusive jurisdiction to hear and adjudicate such matters, thereby aligning with the legal provisions and insuring proper procedural handling.

13. The objective of these directives is to reinforce the legislative intent behind the 2018 amendments and associated regulations, which aim to streamline the adjudication of infrastructure disputes and enhance the efficiency of the judicial process in these complex cases. The Court underscores that any deviation from these directives, including the inadvertent continuation of such cases in regular civil Courts, will result in the proceedings being considered null and void. Therefore, Courts are urged to exercise vigilance in identifying infrastructure related matters and to ensure that such cases are promptly and appropriately transferred to the designated Special Courts. It is further held that, by virtue of circular issued by Hon'ble High Court of Karnataka dated 04.11.2020 the designated Special Court is the civil Court in the hierarchy of Hon'ble Senior Civil Judge.

14. It is clear that, by virtue of amendment to Specific Relief Act, 2018 this Court has no jurisdiction to try the present suit. Hence, the Applicant/Defendant No.33 and 47 have rightly made out grounds under present application. When this Court has come to conclusion that, as per the provisions of Amended Specific Relief Act, this Court lacks

jurisdiction, without further discussion proceeds to answer this point accordingly without going into the merits of the matter. As per the directions of Hon'ble High Court of Karnataka laid down in the decision relied upon by this Court above, this Court finds it just and proper to mould the relief sought for by the Applicant/Defendant and instead of rejecting Plaintiff this Court finds it just and proper to return the Plaintiff to Plaintiffs for its presentation before the competent Special Court, as it is clarified in Section 20C of the Amended Specific Relief Act, 2018 that the Hon'ble Special Court to dispose the matter within a period of 12 months from the date of service of summons to the Defendant.

15. Point No.2:- In view of the above discussions and the reasons mentioned therein, this Court proceeds to pass the following:-

ORDER

I.A. No.9 filed by Applicant / Defendant No.33 and 47 under Order VII Rule 11 r/w Section 151 of C.P.C., is hereby Allowed.

By virtue of moulding of relief instead of rejection of Plaintiff in the interest of justice and equity Plaintiff is hereby returned for its presentation before the competent Special Court.

Office to return the Plaint to Plaintiff for its presentation to the competent jurisdictional Court. However, both the parties to appear before the competent jurisdictional Court after receipt of summons for their appearance before the jurisdictional Court.

[Dictated to the Stenographer directly on computer and typed by him. Corrected and then pronounced by me in Open Court on this the **22nd day of April, 2026**]

(Smt. Gayatri)
Civil Judge & JMFC.,
Kundagol.
