

27.04.2026

For orders

By keeping in abeyance I.A. No.3 this Court heard learned counsel for Plaintiff and Defendant on maintainability of the suit before this Court.

2. The present suit is filed by the Plaintiff against the Defendant company for the relief of Permanent Injunction and Mandatory Injunction along with Court costs. This Court after the Defendant filing written statement has framed as many as 4 issues and proceeded with matter by recording evidence. The matter has reached to its stage of arguments. At this juncture learned counsel for Plaintiff has filed I.A. No.3 praying for carrying out necessary amendment in the Plaint with regard to further relief of declaration and compensation. Learned counsel for Defendant company has filed detailed objections to I.A. No.3 and he has addressed on the issue of maintainability of this suit before this Court in the back drop of amendment to Specific Relief Act during the year 2018 by submitting further that, the suit filed by the Plaintiff against the Defendant Company attracts the provisions of Specific Relief Act amended during the year 2018.

3. 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 and Mandatory Injunction. Learned counsel for Defendant has drawn the attention of this Court towards the provisions of Section 41 of The Specific Relief Act, as to when injunction can be refused. At the same time learned counsel for Defendant has drawn the attention of this Court towards amended Section 20(A)(1) of Specific Relief (Amended) Act, 2018 which is 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.

4. On perused of entire records available on the file of this Court it appears that, the suit of the Plaintiff attracts infrastructure project as the suit is filed against Defendant Company for the relief of Permanent Injunction to restrain the Defendant Company from the free flow of electricity supply through the conductor situated over the suit schedule land and also for the relief of Mandatory Injunction for removal of the electric 4 feeder poles with high tension service lines installed over the suit property. The subject matter of electricity comes within the schedule Sl. No.2 energy Clause (a) to (c) of the Amended Specific Relief Act, 2018.

5. 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 at its stage of arguments. 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 already recorded evidence. I.A. No.3 is pending disposal and has not been disposing 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.

6. Though learned counsel for Plaintiff has in detail addressed his arguments on I.A. No.3 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 company 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. Hence, without further discussion proceed to pass the following:

ORDER

Suit of the Plaintiff is hereby directed to be returned for its presentation before the competent jurisdictional Court (Special Court).

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

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