

KAHS400016132025



Presented on : 23-10-2025
Registered on : 23-10-2025
Decided on : 18-03-2026
Duration : 4 months 26 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
AT ARSIKERE**

DATED THIS THE 18th DAY OF MARCH 2026

Present: Sri.Kirankumar D.Wadigeri, B.A.L., L.L.B.,
Senior Civil Judge & JMFC,
Arsikere.

R.A.No.29/2025

APPELLANTS:

1. Sri.G.S.Basavaraju
S/o Late Siddappa G.
Aged about 71 years
2. Sri.Sunai Kumar G.B.
S/o G.S.Basavaraju
Aged about 37 years

Both are R/o Preksha Loka,
Mangalapura Road,
Near Indian Gas Godown,
Gandasi Hobli, Arsikere Taluk.

(By Sri.P.V.,Advocate)

- Versus -

RESPONDENT:

Superintendent Engineer
Karnataka Power Transmission
Corporation Pvt.
Office of the Assistant Executive Engineer (V)
Bulk Works Sub-Division -2, 1st Floor,
Prasad Bhavan, B.M.Road,
Santepete, Hassan.

(By Sri.N.A.R., Advocate)

Date and Nature of the Order	Appeal against the Order passed on I.A.No.3 in O.S.No.532/2024 dated 24.09.2025 by the Prl. Civil Judge & JMFC, Arsikere.		
Date of Institution of the Appeal	23.10.2025		
Date on which Judgment was pronounced	18.03.2026		
Duration of the Appeal	<u>Year/s</u>	<u>Month/s</u>	<u>Day/s</u>
	00	04	26

(Kirankumar D.Wadigeri)
Senior Civil Judge & JMFC,
Arsikere.

J U D G M E N T

The appellants/plaintiffs have preferred this regular appeal under Order 41 Rule 1 of CPC against the Order passed on IA No.3 in O.S.No.532/2024 dated 24.09.2025 by the Prl. Civil Judge and JMFC, Arsikere.

2. The parties to this proceeding will be according to their rankings before the trial court for the sake of convenience.
3. The defendant has filed this application U/O 7 Rule 11(d) CPC for rejection of plaint.
4. The defendant in his affidavit has stated that, the plaintiffs have filed the present suit seeking the relief of permanent injunction to restrain the defendant from laying a 110 KV electricity transmission line over the plaint schedule property. The suit filed is not maintainable in law and is liable to be rejected under Order VII Rule 11(d) of CPC, as the relief sought is expressly barred under Section 20A(1) and Section 41(ha) of Specific Relief (Amendment) Act, 2018, which prohibit courts from granting injunctions in respect of infrastructure projects where such injunction would cause delay in progress or completion of the project.
5. Further submits that these defendants are licensees under the Electricity Act, 2003, duly authorized by the Government of Karnataka to exercise powers of the Telegraph Authority under Section 164 of the Act. Under Sections 10 and 16 of the Indian

Telegraph Act, 1885, the authority has the statutory power to place and maintain transmission lines over private lands for public purpose, subject to payment of compensation. The jurisdiction of the Civil Court is impliedly barred under Section 9 of CPC, as the scheme of the Electricity Act, 2003 and the Telegraph Act, 1885 provides a complete mechanism for execution of such works and for compensation in case of loss or damage. Under this project laying of 110 KV line from 220 KV Dudda Substation to 110 KV Gandasi Substation, is a public infrastructure project of great importance for improving electricity supply in Arsikere Taluk. If the present suit is entertained, it will cause irreparable loss and injury to these defendants and the general public, which cannot be compensation in any terms. The relief sought by the plaintiff in this case is barred by law and therefore the plaint is liable to be rejected under order VII Rule 11(d) of CPC. Therefore, prays to allow the application.

6. The plaintiffs counsel filed objection to said IA No.3 and stated that the application filed by the defendants is not maintainable either on facts or in law and is liable to be dismissed

in limine. The reasons stated in the accompanying affidavit are self-serving and have been created by the defendants only to support the IA. The defendants have misread and misapplied the provisions of law and filed the present application without any proper basis. The grounds raised in the affidavit involve triable issues of fact and law which can be decided only after a full-fledged trial. Hence, this application is premature and liable to be dismissed at the threshold. Further stated that if this application is allowed, the plaintiffs will be put to irreparable loss and hardship, whereas if dismissed, no prejudice will be caused to the defendants. The defendants have sought multiple prayers in a single IA which is contrary to Section 23 of the Civil Rules of Practice and therefore the application is liable to be rejected on that grounds as well. Therefore prays to dismiss the IA No.3 filed by the defendants with cost.

7. The Trial Court has allowed the application filed by the defendant and being aggrieved by the same, the appellants/plaintiffs have preferred this appeal for the following grounds.

GROUND OF APPEAL

- 1) The Trial Court has erred in rejecting the plaint without considering the materials on record and without appreciating the plaint averments in proper manner.
- 2) The Trial Court has wrongly interpreted Section 20A(1) and Section 41(ha) of Specific Relief Act R/w 164 of Electricity Act, 2003 & Section 10 of Telegraph Act-1855 and erred in holding that the suit is not maintainable.
- 3) The Trial Court has not considered that the defendant / respondent without following the mandatory provision and trying to encroach the Green land for installation of 110 KV AC line through the suit property.
- 4) The order of the Trial Court is erroneous, perverse, capricious and it requires interference of this court. Hence, the appellants prayed to allow the appeal.

8. The points that would arise for my consideration are as follows.

POINTS

1. Whether the Trial Court has justified in allowing the application filed by the defendant?

2. Whether the appellants have made out grounds to allow the appeal?
 3. What order or decree?
9. Heard and perused the oral and documentary evidence of both parties and perused the Judgment passed by the Trial Court.
10. My findings to above points are as follows:
- Point No.1 - In the Affirmative**
 - Point No.2 - In the Negative**
 - Point No.3 - As per final order for the following:**

REASONS

11. **Point No.1 and 2** : Both the points are inter-connected with each other. Hence, in order to avoid repetition of facts and evidence, both the points are taken together for consideration at one stretch.
12. The plaintiffs / respondents have filed the suit against the respondent for the relief of permanent injunction to restrain the

defendant from interfering with his peaceful possession and enjoyment of the suit property. The plaintiff has pleaded that he is the owner in possession of the suit property and he has constructed a godown and stored Indian Gas (IOCL) as plaintiff No.2 is the distributor and the plaintiff No.2 has alienated the said site and the same was converted into non-agricultural purpose and constructed building for storing Indian Gas. Further, it is pleaded that the defendant is intending to install High tension cable i.e., 110 KV AC line through their property without following the due procedure and hence they filed the suit.

13. The defendant in this application has taken contention that the suit is not maintainable under Section 20A(1) and Section 41(ha) of Specific Relief (Amendment) Act-2018 and the suit is barred under Section 9 of CPC. On the other hand the plaintiffs have taken contention that the very application filed by the defendant / respondent is not maintainable and the suit requires full-fledged trial and the very application is prematured and if the plaint is rejected, they will face much hardship and loss.

14. After perusal of the records, before filing of the suit, the plaintiffs have issued the legal notice on 05.07.2024 and the defendant has replied for the said notice on 01.08.2024 and the plaintiffs have also requested the Court to direct the defendant to change the alignment of the said installation. On the other hand the defendant has taken contention that their authority is the corporation under the Electricity Act-2003 and vested with powers of Telegraph Authority under Section 164 of said Act and under Section 10 and 16 of Telegraph Act, 1885 and they have got power to install electrical cable without giving prior information to the land holders who are concerned. Further, as discussed above the defendant authority had replied for the said notice on 01.8.2024 and subsequently paper publication was also published in the newspaper. So, it appears that the defendant has followed due procedure before installing the electricity cable in the suit property. Further it is asserted by the defendant's counsel that in view of Section 20A(1) & Section 41(ha) of the Specific Relief (Amendment) Act-2018, no such injunction can be granted in respect of infrastructure projects and very purpose will be defeated if there is any delay is caused.

15. As per Section 9 of CPC - Jurisdiction of Civil Courts, the Civil Court have no jurisdiction to try all the suit of a civil nature except those which which are either expressly or impliedly barred. The Trial Court has mainly relied Section 145 of the Electricity Act, 2003 - Bar of Civil Court Jurisdiction.

This provision declares that no civil Court shall entertain any suit or proceeding in respect of matters which the assessing officer under Section 126, the appellate authority under Section 127, or the adjudication officer under the Act is empowered to determine. Hence, jurisdiction of civil courts is ousted where the Act provides remedies.

However, it is wrongly relied Section 20A of the Specific Relief Act-1963 (as amended in 2018) which reads as follows:

This provision expressly bars courts from granting injunctions in respect of infrastructure projects specified in its schedule, including projects relating to electricity. The legislative intent is to prevent delay or obstruction of public infrastructure works.

As per Section 41(ha) of the Specific Relief Act, 1963 (as amended in 2018), which reads as follows:

Section 41 enumerates situations where injunction cannot be granted. Clause (ha) specifically states that no injunction shall be granted to restrain a person from executing any infrastructure project or work involving electricity supply and related services.

In view of the above said sections and provision of law and as per Section 9 of CPC, the present suit seeking injunction against the defendant in installing the Electricity cable in the suit property is not maintainable and the defendant authority is vested with powers of Telegraph authority and they are executing the lawful public infrastructure project. So, no such suit is maintainable and the Civil Court is barred by interfering in such statutory function.

16. The plaintiffs / appellants has relied a decision before the Trial Court in **RFA No.851/2015 in between Bangalore Electricity Supply Company Ltd., V.H.N Sampaih**, decided on 11.07.2018, wherein the High Court directed to change of the alignment of a transmission line to reduce hardship to affected landowners. They argue that a similar direction can be issued here, considering the presence of a gas agency.

17. However, in the said case has directed Electricity authority to change the alignment from the suit property but it appears that, there is no general principle permitting injunction suits against electricity projects. On the other hand the learned counsel of the respondent / defendant has relied the decision reported in **(2017) 5 SCC 143 in between Power Grid Corporation of India Ltd., V/s Century Textiles & industries Ltd.,** in which it is held that, once powers are conferred under Section 164 of the Electricity Act, landowners cannot seek injunction to restrain transmission lines, and the only remedy is compensation under the Telegraph Act. Further relied the judgment in **W.P.Nos.46532-46533/2012 in between Smt. Pillamma V. Assistant Executive Engineer, KEB & others,** decided on 07.12.2018, it was reiterated that once statutory powers are exercised under the Electricity Act and Telegraph Act, the landowners cannot seek to obstruct the work by way of injunction, and their remedy is only compensation.

18. So, in view of the above decisions the only remedy available for the plaintiffs is to seek compensation and the Civil Court has no Jurisdiction to entertain the projects of the Governments for

infrastructure. Further, the learned counsel of the respondent has relied the following decisions:

- 1) Writ Petition No.200910/2024 in between Basappa Alias Chandrahsekhar and ors V/s State of Karnataka and others.
- 2) R/Special Civil Application No.14617/2022 in between Parth Krishnkant Patel V. Manging Director/ General Manager (legal Cell)
- 3) Writ Petition 2820/2018 in between Indo Nippon Chemical Co. Ltd vs Mumbai Metropolitan Region Development Authority and others

After perusal of the said decisions also, no such injunction can be granted against the statutory authority while executing the infrastructure projects. Further, it is observed that, if such injunction order is granted which ultimately may delay the execution of the Mega projects, it must be remembered that it may seriously impede the execution of the projects of public importance and disables the state or its agencies from discharging the constitutional and legal obligation towards the citizens.

19. As per Order VII Rule 11(d) of CPC, the plaint shall be rejected where the suit appears from the statement in the plaint to be barred by any law and in view of statutory bars and in view of Section 9 of CPC, no such suit is maintainable as the defendant is vested with statutory authority to execute such works and only remedy available for the plaintiffs to seek the compensation against the respondent. Therefore, the Trial Court has not at all erred in allowing IA No.3 and rejecting the plaint. So, it is not necessary for this Court to interfere with the order passed on IA No.3 by the Trial Court. Hence, my findings to **point No.1 is in the Affirmative and point No.2 is in the Negative.**

20. **Point No.3:** In view of the reasons and findings given to point Nos.1 and 2, the following is made:

ORDER

The Regular Appeal filed by the appellants is hereby dismissed with cost.

Accordingly, the Order passed on I.A.No.3 in O.S. No.532/2024 dated 24.09.2025 by the Trial Court under Order 7 Rule 11(d) of CPC is hereby confirmed.

Draw decree accordingly.

Office is directed to send TCR to the
Trial Court along with copy of this Judgment.

(Dictated to the Stenographer, transcribed and computerized by
her, corrected and then pronounced by me in the open court on
this 18th day of March, 2026)

(Kirankumar D.Wadigeri)
Senior Civil Judge & JMFC.,
Arsikere.