

ORDER

Perused the plaint and the written arguments filed by counsel for plaintiff reveals that plaintiff is "Renew Wind Energy Pvt. Ltd., has entered into agreement of sale under registered agreement of sale document No.2335/2016-17 on 01-08-2016 through it's authorized signatory with defendants. Defendant No.1 being the absolute owner agreed to sell the suit schedule property bearing Sy.No.49/*/1 measuring 05 acres 08 guntas situated at Hemanal village of Devadurga Taluka for sale consideration amount of Rs.22,88,000/- and executed the registered agreement of sale in presence of defendants No.2 to 4 and also agreed to execute the registered sale deed (to deliver all original documents of title of the suit schedule property and revenue documents, encumbrance certificate, survey records, etc.) to plaintiff.

The plaintiff has pleaded the cause of action for the suit arose on 08-06-2020 when plaintiff got issued legal notice to the defendants.

As per the judgment of Hon'ble Supreme Court of India in Civil Appellate jurisdiction in Civil Appeal No.7843/2019 (Arising out of SLP (civil) No.9391/2019

between Ambalal Sarabhi Enterprises Ltd.,
V/s K.S. Infraspace LLP and Anr.

Section 2(1) (C) (VII) of Commercial Disputes Act, defines agreements relating to immovable property used exclusively in trade or commerce. The immovable property must be used exclusively or being used exclusively in trade or commerce.

The present plaintiff has entered into agreement of sale with defendants as the plaintiff intended to buy the lands to the extent of 125 acres, as the plaintiff company is doing business of energy. The Government of Karnataka has allotted 20 Mega Watts Solar PV ground mounted project in Devadurga Taluka to the plaintiff company.

On perusal of the plaint the plaintiff has pleaded the said fact and the agreement of sale entered with the defendants does not come under the preview of Section 2(1) (C) (VII) of Commercial Disputes Act, hence the suit filed by the plaintiff is maintainable and triable by this court.

Hence issue suit summons to defendants and emergent notice of I.A.No.1 to defendants.

Call on 20-09-2021.

Senior Civil Judge,
Devadurga.