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**IN THE COURT OF THE ADDL.CIVIL JUDGE & JMFC, AT  
MAGADI**

**PRESENT: SMT.DHANALAKSHMI.M. B.A.L., LL.B.,  
Addl.Civil Judge & JMFC,  
Magadi, Ramangara District.**

**Dated: This 24<sup>th</sup> day of August, 2023**

**O.S.NO.127/2023**

**PLAINTIFF**

:

Sri.Sanjay.S.  
S/o Srinivasaiah.R.  
Aged about 28 years,  
Residing at Aladakatte  
Village,  
Kudur Hobli,  
Magadi Taluk,  
Ramanagara District.

**(Plaintiff Represented by  
Sri.L.P.S Advocate)**

**-Vs-**

**DEFENDANT**

:

The Karnataka Power  
Transmission,  
Corporation Limited (KPTCL),  
Registered under the Companies  
Act,  
Corporation office at Cauvery  
Bhavan,  
Bengaluru-560009.

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Represented by it's  
The Executive Engineer (Ele),  
Major,  
Worked Division, KPTCL,  
Old B.M.Road,  
Ramanagara.

**(Defendant is  
Represented by  
Sri.H.V.P., Advocate)**

**I.A.No.II**

**Applicant** : Sri.Sanjay.S.  
-Vs-  
**Opponent** : The Karnataka Power  
Transmission Corporation  
Limited

**ORDER ON I.A No. II UNDER ORDER XXXIX RULE 1 and 2  
R/w Sec.151 CODE OF CIVIL PROCEDURE**

This application is filed by Plaintiff under Order 39 Rule 1 & 2 read with Section 151 of Code of Civil Procedure, 1908 praying to grant Order of temporary injunction to restraining

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the Defendant, their agents, servants or anybody claiming through them from not to interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property till disposal of the suit in the above case in the interest of justice and equity and at present the case is at the stage of Plaintiff evidence.

2. The plaintiff has filed an application along with an affidavit and he has filed a suit against the Defendant for Permanent Injunction. Plaintiff submitted that, the suit schedule property came to plaintiff through registered Gift Deed dated 10.10.2022 and handed over the possession of the suit schedule property to plaintiff on the same day. The khatha has been effected in the name of the plaintiff.

It is further stated that, the Defendant have intended to installing the Power Grid line over the suit schedule property under the Scheme for construction of new 66 KV SC line on DC Towers from existing 66/11 KV, Soluru Sub-Division Station. For the said scheme, they intended to acquire the measuring to an extent of 0.17 guntas in the suit schedule property. With

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regard to that, they issued the notice of the Plaintiff dated 16.03.2023, but even till today the defendants neither step into the acquisition amount nor fixed the acquisition proceedings from the defendant's side.

It is further stated that, on 03.04.2023 the Defendant along with staff came near the suit schedule property and they made hectic attempt to interfere with plaintiff peaceful possession and enjoyment over the suit schedule property and plaintiff resisted the same with the help of neighbours, then the defendant left the spot by asserting that once again defendant will come forcibly oust plaintiff from the suit schedule property.

It is further stated that, plaintiff has lodged the complaint before the concern Kuduru Police, by they did not received the same and told that, the matter is civil in nature, have plaintiff approached the jurisdictional civil court. Plaintiff is an poor person and entirely depending upon the suit schedule property, the defendant is very powerful person, at any point of time they

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interfere with plaintiff peaceful possession and enjoyment over the suit schedule property. Hence, this application.

3. In response, the defendants, through their counsel, appeared and filed a written statement denying that the averment made in the Plaint are false, frivolous and vexatious. It is contented that, the KPTCL proposed a scheme for construction 66 KV DC Towers on the existing 66 KV SC Line Corridor from 66/11 KV Soluru Sub-Station to 66/11 KV Kudur Sub-Station for a distance of 10.996 Kms. The said project has been notified in the Gazette, dated 6.11.2019 and Published and published in two daily circulated Newspaper "Deccan Herald" and "Kannada Prabha" even dated 26.11.2019 and the survey has been conducted by M/S Deeksha Infotec, Bengaluru and the Tower Schedule has been fixed by the Surveyor and the same has been approved by the Superintending Engineer Ele., Transmission (Works), KPTCL, Bengaluru and other Officers. The total cost of the scheme as approved for establishing scheme and project is Rs.878.95 Lakhs and the total number of Towers fixed for the work are 57

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Locations, for construction of 66 kV DC Towers on existing Corridor of 66 kV SC Line for a route length of 10.996 kms to existing 66 kV Solur Sub-Stations to 66 kV Kudur Sub-station and formation of additional 66 kV Bay at 66/11 kV Gudemaranahalli and Kudur Sub-Station.

It is further submitted that, out of 57 Towers in respect of 45 number of Stubbing work completed and 44 number of Towers have been erected in the Lands belonging to various other owners, who have not caused any obstructions and still there are 12 number Towers, Stubbing works has to be started.

It is further submitted that, the construction of said work has to be completed within the schedule time. The execution of the work is very much essential in the interest of public in order to provide power to the villagers in an around the Station, since the Villagers are facing the severe voltage problems and the surrounding area is fully with industries and fast developing area and the load growth is very high and the load requirement could not be met without completing the Line Work.

It is further submitted that, the KPTCL Corporation is exercising powers of Telegraph Authority under the provision of

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Section 10 to 19 and 19A of the Act, since those powers have been conferred on the KPTCL by the state of Karnataka exercising powers under the provisions of Section 164 of the Electricity Act, 2003. The Officers of the KPTCL have every right to enter upon the Lands belonging to the Private Citizens without prior notice for the proposed of Erection of Towers and placing of Apparatus for the Drawing of Transmission Lines.

It is further submitted that, under Section 10(d) of the Indian Telegraph Act, the KPTCL has every right to enter upon lands of the public for the Election of Towers and the Drawl of Transmission Lines will have to be in Straight Line. The Erection of Towers and the Drawl of the Transmission Lines cannot be in a Zig-Zag Manner unless it is required to avoid, thickly populated areas, Tanks, Forest Lands and any deviation will result in revenue and transmission loss which will be life long and it is impossible to deviate the path for the drawing of the Energy/EHT Lines, since the path for the Drawl Energy Lines will have been Meticulously fixed as stated above fixed by

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the survey conducted by the competent Technical Persons of the Corporation.

It is further submitted that, the Plaintiff claiming to be the owners of the schedule property causing obstruction and thereby the KPTCL had approached the District Magistrate, Ramanagara District, Ramanagara for removal of obstructions and fixing the damages as compensation by filing a Petition in case No. LAQ (CR) 11/2021-2022, under Section 10(d) and 16 (1) of the Indian Telegraph Act, 1885 read with Section 164 of the Electricity Act, 2003.

It is further submitted that, the said Petition in Case No. LAQ (CR) 11/2021-2022 came to be allowed on 01.10.2021 awarding compensation by way of damages and the District Magistrate removed the obstructions and granted permission to the KPTCL to erection of tower and draw the line on the suit schedule property. The averments made in Para 4, 5 and 6 of the Plaint with regard to the cause of action, are all cock and bull stories putforth by the plaintiff in order to gain the symapathy of this Hon'ble Court and however, the District Magistrate who has been authorized to assess the compensation

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within the meaning of Section 10(d) of the Indian Telegraphic Act, and as such the compensation has been determined as per Section 10(d) of the Act and as such the rights of the Defendant to erect the Tower and to draw Transmission Line for the purpose of public at large and therefore, the plaintiff entitle for damages as stated above and therefore, the suit of the plaintiff for Bare Injunction is not maintainable either under law or under the facts. Plaintiff has no prima facie case and balance of convenience in his favour and moreover the entitlement of the damages as stated above would be finalized at the time of execution of the work and same has been disbursed to the concerned owner after submitting the documents as required and as such the averments of the plaint as to the resistance by the plaintiff would not arise. Hence, Defendant prayed to reject the application.

4. Heard on Plaintiff side and Defendant filed written arguments.

5. The points that arise for consideration are as follows:

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**1. Whether the Plaintiff have made out a prima facie case?**

**2. Whether the balance of convenience lies in their favour?**

**3. Whether the Plaintiff will be put to hardship and injury if the Order of temporary injunction is not granted?**

**4. What order?**

6. The findings of this court on the above said points are as under:-

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

**REASONS**

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7. **POINT NO.1** :- This application is filed by Plaintiff under Order 39 Rule 1 & 2 read with Section 151 of Code of Civil Procedure, 1908 praying to grant the Order of temporary injunction to restraining the Defendant, their agents, servants or anybody claiming through them from not to interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property till disposal of the suit in the above case in the interest of justice and equity

#### **SCHEDULE**

The Land bearing Sy.No.42, measuring to an extent of 2 acres, excluding 0.5 guntas Karab remaining 1 acre 0.35 guntas, situated at Aladakatte Village, Kuduru Hobli, Magadi Taluk, Ramanagara District as:

East by : Land of Nanjundaiah.  
West by : Government Gomala.  
North by : Land of Siddabyraiah.  
South by : Land of Rangaswamaiah.

8. This court has carefully perused the list of documents produced by the parties. The list of documents of plaintiff

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consists of the xerox copy of the Registered Gift Deed dated 10.10.2022 executed infavour of the Plaintiff, original computerized RTC extract, original Vide Mutation Registrar No.H.2/2022-2023, original two notice issued by the defendant date 13.07.2021 and 16.03.2023, Photos of suit schedule property and C.D.

9. The Learned counsel for the plaintiff argued that the Defendants have not conducted the acquisition proceedings nor fixed acquisition amount to the suit schedule property but they are interfering the suit schedule property and trying to install the power grid line over the suit schedule property under the scheme for construction of new 66 KV SC line on DC tower from existing 66/11 KV, Soluru, Guddemaranahalli sub-division station. Per contra Defendant argued that they have already fixed the compensation by filing petition before District Magistrate Ramanagara.

10. The list of documents of the Defendants consists of the copy of official memorandum dated 30.10.2019, copy of

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Gazette dated 26.11.2019, copies of paper publication, copy of check survey report, copy of notification dated 24.03.2006, copy of Order passed in LAQ(CR) 11/2021-2022 passed by the District Magistrate, Ramanagara District, Ramanagara.

11. At this stage, without going in to the merits of the case and holding mini trial, this court has considered the aspect of Prima facie case. At this stage, this court makes it very clear that this court is looking towards prima facie case and not prima facie title. It is well-settled principles of law that at the time of disposing the Temporary Injunction application, the court cannot go into the prima facie title and only to consider whether the Plaintiff has made out a prima facie case for granting interim relief.

12. The primary purpose for granting interim relief is the preservation of the things in dispute till legal rights and conflicting claims of the parties before the court are adjudicated. In other words, the object of making an order regarding interim relief is to evolve a workable formula to the extent called for by the demands of the situation, keeping in

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mind the pros and cons of the matter and striking a delicate balance between two conflicting interests i.e., injury and prejudice, likely to be caused to the Plaintiff if the relief is refused; and injury and prejudice likely to be caused to the Defendants if the relief is granted. The underlying object of granting temporary injunction is to maintain and preserve status quo at the time of institution of the proceedings and to prevent any change in it until the final determination of the suit. It is in the nature of protective relief granted in favour of a party to prevent future possible injury.

13. The power to grant a temporary injunction is at the discretion of the court. This discretion, however, should be exercised reasonably, judiciously and on sound legal principles. Injunction should not be lightly granted as it adversely affects the other side.

14. The first rule is that the applicant must make out a prima facie case in support of the right claimed by him. The court must be satisfied that there is a bonafide dispute raised

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by the applicant, that there is a strong case for trial which needs investigation and a decision on merits and on the facts before the court there is a probability of the applicant being entitled to the relief claimed by him. The existence of a prima facie right and infraction of such right is a condition precedent for grant of Temporary Injunction

15. This court has carefully perused the materials on record to ascertain the prima facie case as averred by the Plaintiff. The Plaintiff has produced the documents the copy of official memorandum dated 30.10.2019, copy of Gazette dated 26.11.2019, copies of paper publication, copy of check survey report, copy of notification dated 24.03.2006, copy of Order passed in LAQ(CR) 11/2021-2022 passed by the District Magistrate, Ramanagara District, Ramanagara.. It is pertinent to note that the defendants have filed petition in Case No., LAQ(CR) 11/2021-2022 before District Magistrate Ramanagara. It also came to be allowed on 01.10.2021 awarding compensation by way of damages. The order passed by the District Magistrate Ramanagara clearly reveals that for one

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Square feet the compensation of Rs.3600/- fixed for the land owners.

1. The forest department will fix the compensation amount in respect of trees through which the power grid line passes.
2. While fixing the power grid line if any damages caused to the trees or crops the compensation of Rs.2,00,000/- per acre will be awarded to the land owners.
3. Where the power grid passes through building, well, tube well the department of Public Work will fix compensation.

And also, as per section 20 A of *Specific Relief Act* injunction can not be granted by court relating to infrastructure project, where granting injunction would cause impediment or delaying in the progress or completion of such infrastructure project.

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As per Section 41(ha) of *Specific Relief Act* if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related there to service being the subject matter of such project. Hence by considering Section 20A and 41(ha) of *Specific Relief Act* the plaintiff is seeking temporary injunction relating to infrastructure project this court is of the opinion that as it is against the public interest at large and against public policy. After considering the overall documents produced by Plaintiff, it appear to this court that the Plaintiff have not made out prima facie case for grant of temporary injunction. **Accordingly I answer Point No.1 in the Negative.**

16. **Point No.2 and 3**: The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. In other words, the court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by

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refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

17. The existence of the prima facie case alone does not entitle the applicant for a temporary injunction. The applicant must further satisfy the court about the third condition by showing that he will suffer irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury.

18. After considering the materials on record it appears to this Court that the balance of convenience leans in favour of the Defendants and if the equitable relief of Temporary Injunction is not granted infavour of the Defendants, then the Defendants will be put irreparable loss and hardship and the same cannot be compensated in terms of money. **Accordingly I answer Point No.2 and Point No.3 in the Negative.**

19. **POINT NO.4:-** For the reasons discussed herein above on Points No. 1 to 3, I proceed to pass the following:

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**ORDER**

- IA No. II under Order 39 Rule 1 and 2 R/w 151 of CPC filed by the Plaintiff is hereby dismissed with costs of Rs.500/-.

(Dictated to the stenographer, typed directly on computer, script corrected, signed and then pronounced by me in the open court, this the 24<sup>th</sup> day of August, 2023)

**(Smt.Dhanalakshmi.M)**  
**Addl.Civil Judge & JMFC,**  
**Magadi.**