

**IN THE COURT OF THE SENIOR CIVIL JUDGE
AND JMFC., SHAHAPUR.**

Present: **Smt. Hema Pastapur**, B.A., LL.B.
Senior Civil Judge and JMFC,
Shahapur.

Misc. Appeal No.02/2026

Dated this 01st day of August-2026

Appellant/
plaintiff:-

Basavarajappa S/o Sankreppa
Rachareddy, Age: 68 years, Occ:
Agriculture, R/o: Bilahar village,
Tq: Wadagera, Dist. Yadgir.

(By Sri.R.M.H. Advocate)

Versus

Respondents/
defendants:-

1. Govt. of India through deputy
Commissioner, Yadgir, Tq and Dist:
Yadgir.
2. National Highways Authority of
India, plot No.22, 23 Jaka complex,
Opp: ICICI Bank road, Yadgir,
Swamy Vivekanand Nagar Yadgir,
Tq and Dist: Yadgir.
3. Spl. Land Acquisition Officer
Highways Authority of India, plot
No.22, 23 Jaka complex, Opp:

ICICI Bank road, Yadgir, Swamy
Vivekanand Nagar Yadgir, Tq and
Dist: Yadgir.

4. M/s Dilip Buildcon Limited, A
Limited Company, having it's
Corporate office at Plot No.5, inside
E Govind Narayan Singh Gate,
Chuna Bhatti Road, Bhupal (M.P.),
through it's Project Manager,
Bendebembli Camp Bendebembli,
Tq: Wadagera, Dist: Yadagir.

(Absent)

ORDER

That, the Appellant– plaintiff in O.S.No.164/2024
on the file of the Addl. Civil Judge and JMFC,
Shahapur, has preferred this Appeal under Order XLIII
Rule 1 of the Code of Civil Procedure, against the
impugned Order passed on IA No.I dated:- 06.04.2026.
That, the respondents are the defendants therein.
That, for the sake of convenience, parties in this
Appeal are referred by their ranks as assigned in the
trial Court.

Suit schedule property is as under :-

Land bearing Sy.No.223 measuring 11 acres 13 guntas out of 30 acres 13 guntas, situated at Bilar village, Tq: Wadagera, Dist: Yadgir.

1. That, the plaintiff filed the application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, with a prayer to restrain the defendant No.4, his servants, agents or anybody acting or claiming through him from laying the new road in the suit property, till final disposal of the suit.

2. That, the plaintiff has pleaded that the suit land was originally standing in the name of his father and after his death he became the absolute owner and possessor of the same and he is enjoying the same without any hindrance. That, the defendant No.1 is the Government of India, acting under Government of India, Ministry of Road Transport, had acquired the suit land to lay down the N.H. 150- C Highway road from Surat – Chennai economic corridor under

Bharath Mata Pariyojana to the extent of 2.772058 hector and also paid the compensation to the land owner of the suit land including him.

3. That, the plaintiff has further pleaded that the defendant No.2 is the National Highway Authority under the Government of India and the defendant No.3 is the land acquiring authority under the defendant No.2. That, the defendant No.4 is a Limited Corporate Company who had taken contract work from the defendants No.1 and 2 for laying the said highway road.

4. That, the plaintiff has further averred that the defendant No.3 before acquiring the suit land had issued the notices to land owners under Section 3(a) of the National Highway Act 1956, and thereafter, the defendants No.2 and 3 have jointly conducted the measurement of the lands and fixed the alignment of road and as per the said measurement, the defendants

No.2 and 3 have acquired the 03 acres 27 guntas in 15 acres pertaining to the plaintiff.

5. That, the plaintiff has further averred that, the defendant No.4 with an ulterior motive and colluding with the neighboring land owners and political leaders had illegally changed the alleged alignment and trying to acquire extra 01 acre 27 guntas towards Eastern side and for which he lodged the complaint before the defendant No.3 on 19.08.2023 but, no action had been taken. That, the plaintiff on 05.10.2023 and 01.02.2024 had also moved the applications to the defendant No.3, Assistant Commissioner Yadgir and also to the defendant No.1 for taking action against the defendant No.4 about his alleged illegal activities. But, the defendants No.1 to 3 have failed to take any action against the defendant No.4. That, now the defendant No.4 has started to store the murum in the suit land. Hence, it is very much necessary to restrain the defendant No.4 from committing his alleged acts.

6. That, the defendant No.4 has filed his written statement, wherein he denied all the contentions of the plaintiff and pleaded that this defendant No.4 is a company duly incorporated under the provisions of the Companies Act, 1956 and is a professionally managed company with inpeachable credentials and extensive experience in successfully executing complex infrastructure projects including the construction of roads and contributing to the development of national assets.

7. That, the defendant No.4 has further pleaded that, one such notable project is the construction of Development of Six lane Access Controlled Greenfield Highway of Maradgi S. Andola to Baswantpur section of NH-150C on Hybrid Annuity mode in the state of Karnataka (hereinafter referred to as the "Project"), awarded to Defendant No.04 based on its outstanding track record and expertise in the field. The contract for this project was awarded by the National Highways Authority of India, Ministry of Road Transport and

Highways, Government of India. (hereinafter referred to as "NHAI / Authority"). Currently the project is under construction.

8. That, the defendant No.4 has further pleaded that, for the execution of Project, only the Central Government, acting through NHAI, is vested with the authority to acquire land for public purposes including the construction, maintenance, management, and operation of National Highways or any part thereof. The Central Government, through NHAI, also bears the responsibility of compensating landowners for the land acquired for such public purposes.

9. That, the defendant No.4 has further pleaded that, the acquisition of land was undertaken solely by the NHAI, acting in accordance in strict adherence to the applicable laws governing the acquisition of land for public purposes. Upon completion of the acquisition process, Defendant No.04 was granted the "Right of Way" (Row) by NHAI to fulfill its obligations under the terms and conditions of the agreement

executed between NHAI and Defendant No.04 (hereinafter referred as "Agreement").

10. That, the defendant No.4 has averred that, the acquisition and compensation process are entirely within the purview of the NHAI, and Defendant No.04 has neither the authority nor the capacity to comment on the acquisition of land or the payment of compensation. The role of Defendant No.04 is limited to executing the works as per the instructions of NHAI, strictly adhering to the terms of the Agreement.

11. That, the defendant No.4 has pleaded that, the suit is liable to be dismissed as from perusal of pleading of the suit, it is evident that the plaintiff seeks injunction order against infrastructure project of NHAI. The provision under section 20A and section 41(ha) of Specific relief act provides Special provisions for contract relating to infrastructure projects that bars the claim which is sought by present plaintiff. The schedule of the specific relief act consists of "Road and

Bridges" as Infrastructure Project. Thus, in present case no injunction order can be issues. That, the defendant No.4 in view of his aforesaid contentions has prayed for dismissing the suit.

12. That, the trial Court considering the materials placed on record, on 06.04.2024 has rejected the I.A. No.I. That, the plaintiff feeling aggrieved with the said Order, has preferred this Appeal on the following grounds that :-

- i. the Order passed by the trial Court is against the facts, documents and law and also failed to exercise its discretionary power.
- ii. the reasons assigned by the trial Court are perverse.
- iii. the plaintiff is a farmer and the trial Court has failed to appreciate the documents submitted by the plaintiff. Hence, the said Order is liable to be set - aside.

13. That, in this Appeal the defendants have not appeared. That, the TCR has secured.

14. That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration and determination :-

1. Whether the Order passed by the trial Court on I.A. No.I is perverse and requires interference of this Court ?

2. What order ?

15. That, My answer to the aforesaid points are as under:-

Point No.1 :- In the **NEGATIVE.**

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

REASONS

16. Point No.1: That, as I have already narrated the facts of the case without reproducing the same again, I would like to find out whether there is any substance in the grievance vendicted by the plaintiff.

17. It is to be noted here that, the plaintiff is claiming that the defendant No.4 is trying to acquire extra 01 acre 27 guntas of land and collected the murum in the suit land. That, the plaintiff to demonstrate his aforesaid contentions has not placed any documentary evidence. That, in absence of any cogent and material evidence said contention of the plaintiff do not assume any importance.

18. That, at this juncture I have gone through the provisions of **Section 20(A) and 41 of the Specific Relief Act**, which contemplates as under:-

Section 20(A) :-

20A. Special provisions for contract relating to infrastructure project.—

(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.

(2) The Central Government may, depending upon the requirement for development of infrastructure projects, and if it considers necessary or expedient to do so, by notification in the Official

Gazette, amend the Schedule relating to any Category of projects or Infrastructure Sub-Sectors.

(3) Every notification issued under this Act by the Central Government shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree

that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Section 41:-

41. Injunction when refused.— An injunction cannot be granted—

(a) to restrain any person from prosecuting a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is

necessary to prevent a multiplicity of proceedings;

(b) to restrain any person from instituting or prosecuting any proceeding in a court not subordinate to that from which the injunction is sought;

(c) to restrain any person from applying to any legislative body;

(d) to restrain any person from instituting or prosecuting any proceeding in a criminal matter;

(e) to prevent the breach of a contract the performance of which would not be specifically enforced;

(f) to prevent, on the ground of nuisance, an act of which it is not

reasonably clear that it will be a nuisance;

(g) to prevent a continuing breach in which the plaintiff has acquiesced;

(h) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust; 1
[(ha) if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project.]

(i) when the conduct of the plaintiff or his agents has been

such as to disentitle him to be the assistance of the court;

(j) when the plaintiff has no personal interest in the matter.

19. It is significant to note here that, in this case admittedly, the defendant No.4 had undertaken the contract relating to infrastructure project i.e. to lay down the high way road. If such being the case, the Court cannot grant interim relief to the plaintiff as prayed. That, the learned trial Court has rightly rejected the I.A. No.I. That, there is no substance in the grievance vendicted by the plaintiff. Accordingly, point No.1 is answered in the **NEGATIVE**.

20. Point No.2:- That, as discussed on point No.1, I proceed to pass the following :-

ORDER

That, the Misc. Appeal filed by the appellant – plaintiff under Order XLIII Rule 1 of the Code of Civil Procedure, is hereby dismissed.

That, no orders as to cost.

That, the order passed by the trial Court on I.A. No.I in O.S. No.164/2024 dated:- 06.04.2024 is upheld.

That, the office is to re-transmit forthwith the trial Court records along with copy of this order.

(Directly dictated to the stenographer, typed by him, corrected by me and then pronounced in the open Court on this 01st day of August -2026)

(Hema Pastapur)
Sr. Civil Judge and JMFC,
Shahapur.