MHKO130003342024	R.C.S. No. 47/2024 Agriapp Technologes Pvt. Ltd. Through Shreedhar Ashok Girennavar Vs. Shree Shridhar Vyankatramana Gampala.

ORDER BELOW APPLICATION EXH. 05.

The present application is filed on behalf of the plaintiff under Order XXXIX Rule 1 and 2 of Civil Procedure Code (hereinafter referred as 'C.P.C.') for i) issuance of temporary injunction order prohibiting the defendant from harming, disturbing the customers or vendors of the plaintiff company in any manner, whether by phone, in person, or through misleading action till disposal of the suit. ii) an appropriate order requiring the fact the plaintiff should return the laptop given to the defendant during his employment & should not misuse the same & should not destroy data contained therein. iii) an appropriate temporary injunction order regarding the defendant should not start the same business belonging to the plaintiff company till disposal of the suit.

2] Briefly stated, the plaintiff has filed the present suit for the perpetual injunction. Plaintiff has come with the case that, plaintiff, a company incorporated under the Companies Act, specializes in precision agriculture and e-commerce, focusing on creating a robust agricultural ecosystem for the benefit of farmers, the economy, and the environment. It deals in agricultural inputs and provides allied services related to agriculture. The defendant was initially appointed as the Chief Operating Officer on 07 January 2022 and was later promoted to the role of Chief Executive Officer (CEO) on 30 June 2023. During his tenure in these executive positions, the plaintiff company entrusted the defendant with certain rights and powers.

3] It is further contended by the plaintiff that while serving in the plaintiff company, the defendant frequently operated from the Kagal office, which is identified as the headquarters in the State Maharashtra. It was from this primary location that numerous significant business decisions were orchestrated. Notably, it was also from this central hub that the defendant tendered their resignation from the position of CEO on 08 January 2024. Subsequently, the company accepted the resignation under specific terms & conditions, leading to the issuance of a letter of discharge to the defendant, dated 08/01/2024. The defendant, upon resignation, was obligated to adhere to several conditions laid down by the plaintiff company, but failed to fulfill these obligations. Specifically, the defendant disregarded the ethical and professional standards expected of them. Following their departure, defendant began exploiting information acquired during his tenure at the plaintiff company for personal gain. This exploitation notably included approaches to key individuals within the agricultural and biotech sectors: Mr. Amit Dattajirao Nalawade, a key distributor for Kolhapur; Dr. Prashant Shetti, a Senior Agronomist with AGRIAPP Technologies Pvt. Ltd; and Mr. Ajay Gowda, the State Head of the group company Criyagen Agri & Biotech Pvt. Ltd. defendant solicited these individuals, among others who have not come forward, to sell the defendant's company's products alongside or in place of the plaintiff company's offerings.

4] It is further contended by the plaintiff that the defendant was issued two laptops by the plaintiff company during his period of employment to support his work responsibilities. These laptops contained critical information, including a detailed list of the company's vendors and customers, as well as extensive data related to the company's e-commerce platform. The defendant has failed to return these laptops, contravening the terms of their departure. The defendant's failure to return the company-issued laptops not only demonstrates the defendant's disregard for his professional and contractual obligations but also raises serious concerns about his intentions with the sensitive and proprietary data contained within these devices. The defendant's actions, including the retention of the laptops and the potential misuse of their contents, are adversely affecting the business, customer, and vendor relations of the plaintiff company, legal action against the defendant has become imperative. The plaintiff company has lodged a FIR No. i.e. 71/2024 against the defendant under Information Technology Act, 2008, Section 72, 66(c), 72(A). The prima-facie case made out against the defendant, balance of convenience in favour of plaintiff. Hence, plaintiff filed the present suit and vide the present application prayed for relief of temporary injunction.

5] Defendant has filed his say at Exh. 17 and pleaded that the application for temporary injunction is not maintainable at all against the defendant. The suit of plaintiff company was filed by one Shreedhar Ashok Girennavar who is not any Director, Secretory or any officer. As per the provision under order 29 rule 1 in the suit on behalf of company pleading i.e. plaint may be signed and verified on behalf of the company by the secretory, by any director or other principle officer of the company who is able to depose of the facts of the case. The person who has signed the plaint and other documents in the present case has no any authority to put his signature on behalf of company. Even in the plaint itself no where pleaded by plaintiff that under which authority he has signed the plaint and other documents. Shreedhar Ashok Girennavar who signed the plaint, is holds a junior position as a servant in the company, he has no any executive or decision making authority.

6] It is pleaded by the defendant that the present suit is commercial suit and this Court has no jurisdiction to entertain the suit.

Defendant have never resided at Kagal or done any business from Kagal. To make harassment of defendant, the plaintiff have filed the present suit in this Court. This suit is for simplicitor injunction without any declaration. The allegations are deliberately contended by plaintiff company with a malafide intention to cause wrongful loss to defendant. The plaintiff deliberately suppressed material facts and mislead the Court.

7] It is submitted by the defendant, the offer letter dated 07/01/2022 issued by plaintiff company to the defendant agreed in principle to the salary structure and also for an advisory role with designation of COO. Defendant accepted an advisory role after resignation from Cormoandel from the month of April 2022. Plaintiff company started to pay an amount of Rs. 5,00,000/- per month as consulting fee as an ad-hoc payment against agreed consultancy year charges of Rs. 100,00,000/- In reality, no powers were vested with defendant as alleged in the application. Plaintiff company was not given any formal appointment letter, no monthly pay slip was generated, no employee code was given and no PF was deducted, no any power was delegated or no any power of attorney was given by company to the defendant. Which proves that Defendants engagement was nearly an advisory role without any executive powers and responsibilities. Defendants designation as CEO is only on paper made CEO, but further steps have not been initiated by company for long time. There is no change in defendants engagement model and he stood remain as a consultant. There is no change in monthly pay, no pay slip, no POA and no employee number.

8] It is further pleaded by the defendant, Mr. Basavraj asked defendant to sign as CEO agreement with back date. But defendant did not agree to sign the back dated document. Defendant's resignation accepted by Basavraj through email on 07/01/2024. The said email was sent by defendant from Benglore. Basavraj requested defendant to comply with regular exit fromalities. On 07/01/2024 Basavraj accepted the resignation and after acceptance of defendant's resignation Mr. Basavraj send a letter to defendant on 08/01/2024 through email with attachment letter unsigned showing some conditions, which was not agreed by the defendant. That conditions, which was one sided and not accepted by defendant. All the necessary documents are in the control of plaintiff company. Defendants access to database was taken out immediately in the next two days and the plaintiff's business email also was inactivated without any intimation to defendant. Therefore it is impossible that defendant is misusing confidential information.

9] It is submitted by the defendant, defendant has not commenced his new business till today on the date of this reply. Then it is impossible for defendant to poaching employees and customers and don't have any purpose. Defendant already hand over the laptop with police. The said laptop does not have any confidential information and it is used only for doing some routine works and all customer data and other business date are in the forntr of the IT Department for which defendants access was removed within two days of his resignation. Despite an offer letter stipulating Rs. 168 Lakh for 21 months of service, only 105 lakhs were only paid to the defendant by plaintiff company. Shortfall of Rs. 63 lakhs for which plaintiff company is still obliged to disburse to defendant. While submitting resignation, Dr. Basavraj informed to disburse is well aware that all the official logins, id's etc of defendant were closed by it immediately after resignation was accepted and defendant has no access today to utilize company's data. Hence, defendant prayed for rejection of the application below Exh.5.

10] Heard the learned advocate for plaintiff and the learned advocate for the defendant. The learned advocate for the defendant is relied upon the ratio laid down in the following case laws :-

i) Percept Talent Management Pvt. Ltd. vs. Yuvraj Singh & Anr, AIR MR 72: 2008(2).

ii) R. Babu Vs. Ttk Lig Ltd. formerly London Rubber Co. (India) Ltd. (rep. By its President (Operations)), Chennai, 2005(124) Comp case 109: 2004(2) CTC 684: 2005(1) LLJ 474.

iii) Wrap Knits Pvt. Ltd. & Anr. Vs. Anju Sharma @ Anu Sharma @ Anr. 2010(7) R.C.R.(Civil) 2433 : 2009(161) DLT 273 : 2009(7) AD(Delhi) 232 : 2009 (110) DRJ 106.

iv) Subhiksha Trading Services Ltd. & Anr. Vs. Azim Premji 2015(4) AIR Bom. R 269 : 2016(5) ALL MR 125 : 2015(26) R.C.R. (Civil) 552.

I had carefully gone through the above cited supra relied upon by the learned advocate for the defendant.

11] Perused the record of the case, documents filed by the both the sides. From rival contentions of both the parties, following points arise for my consideration, to which I have recorded my findings followed by reasons thereon:-

Sr. No.	**Points**	**Findings**
1	Whether the plaintiff has made out prima-facie case?	....No.
2	Whether the balance of convenience lies in favour of the plaintiff ?	....No.
3	Would plaintiff suffer irreparable loss in case injunction as prayed is not granted ?	....No.
4	What Order ?	....Plaintiff's application below Exh. 5 is rejected.

R E A S O N S

AS TO POINT NOS. 1 TO 3 :-

12] All points are related to each other, hence they are discussed altogether. Plaintiff & defendant have filed bulk of documents. It is convenient to discuss them at relevant points.

13] Through this application, plaintiff is seeking for the relief of interim injunction. The discretionary relief of injunction can be granted and discretion of the court to grant injunction can be exercised only when the following requirements are made out by the plaintiff :-

i) existence of prima-facie case as pleaded, necessitating protection of the plaintiff's right by issue of a temporary injunction;

ii) when the need for the protection of the plaintiff's right is compared with the need for protection of the defendant's rights, or likely infringement of the defendant's rights, the balance of convenience tilting in favour of the plaintiff; and

iii) clear possibility of irreparable injury being caused to the plaintiff if the injunction is not granted.

14] Now, let us see whether the plaintiff has established all the three ingredients for seeking the relief of temporary injunction as prayed for. On perusal of the plaint, it appears that, vide the present suit plaintiff prayed i) for direction to the defendant to fully adhere to the terms of conditions specified in the receiving letter dated 08.01.2024. ii) issuance of order prohibiting the defendant from harming, disturbing the customers or vendors of the plaintiff company in any manner, whether by phone, in person, or through misleading action. iii) make an appropriate order requiring the fact the plaintiff should return laptop given to the defendant during his employment and should not misuse the same &

should not destroy data contained therein. iv) make an appropriate order regarding the defendant should not start the same business belonging to the plaintiff company for 24 months.

15] Before coming towards the controversies involved in the present matter, it is necessary to mention here some undisputed facts:-

i) Defendant is working with the plaintiff's company vide offer letter dtd. 07/01/2022. Defendant's resignation was accepted by the plaintiff on 08/01/2024.

ii) Plaintiff company has lodged F.I.R. no. 71/2024 against the defendant under Information Technology Act 2008, vide Sec. 72(A), 66(C).

16] In view to substantiate the application plaintiff has filed the documents of resolution, registration certificate, acknowledgment form A-2 of the plaintiff company. Moreover, plaintiff has submitted the documents of appointment *elevation letter (C.E.O.),* Strategic leader (C.O.O.) of the defendant, TDS certificate of defendant. More importantly, it is significant to note that, the real dispute between the plaintiff & defendant was arose after resignation of the defendant from the plaintiff company. In the present context, it is necessary to have look over resignation mail of defendant to the plaintiff company. On perusal of the said mail, it appears that it bears the date 07/01/2024. Moreover it also appears that, plaintiff company had issued relieving letter to the defendant on 08/01/2024. On perusal of the said relieving letter it appears that, vide the said letter plaintiff company has accepted the resignation of the defendant & relieved him from the services of the plaintiff company with effect from 09/01/2024. More importantly, the said letter bears the conditions:-

i) You shall abide by the terms of the Appointment letter issued to you on January 7th 2021 appointing you as COO of AgriApp, acknowledged and signed by you.

ii) You shall abide by the terms and conditions in the Term Sheet dated March 6th 2023, duly signed by you, based on which AgriApp received funds from Mintosh Advisory Pvt. Ltd.

iii) You will uphold to professional values expected of a senior executive, as per the Elevation Letter issued to you promoting you to the position of CEO and your acceptance thereof on July 4th and 5th 2023 respectively.

iv) Your entire lot of ESOPs issued under Employee Stock Option Scheme 2023, issued to you on September 22nd 2023, shall stand cancelled.

v) You will return all company assets, surrender all access to systems and facilities, and return all confidential information, including notes, writings and other material developed therefrom by you, and all copies thereof.

vi) You shall be solely responsible to pay income taxes on your income earned from AgriApp, and comply with applicable laws.

17] Moreover, relieving letter dtd. 08/01/2024 also contains key terms of relieving the defendant i.e. non-disclosure, non-compete, non-solicit , non-circumvention. Admittedly, plaintiff has not produced any document which reveals that said terms & conditions as mentioned in the relieving letter is accepted by the defendant. Moreover, plaintiff has not produced any agreement executed in between plaintiff & defendant with respect to the terms & conditions at the time of relieving of the company.

18] Vide the present application, plaintiff prayed for an appropriate order for returning the laptop given to the defendant during his employment by the plaintiff & should not misuse the same & should not destroy data contained therein. Moreover, plaintiff & defendant have produced the copy of F.I.R. bearing no. 71/2024 which is registered in Bengaluru CEN Crime PS. However, the same F.I.R. was registered in the Kannada Language. Hence, the defendant has submitted the translated copy of property statement send to the Magistrate with respect to the C.R. no. 71/2024. On perusal of the said statement, it appears that two laptops has been seized by the concerned investigating officer as they are produced by the accused on 15/03/2024 i.e. after the filing of the present suit. It is significant to note that, with respect to the alleged misuse and retention of the alleged laptops by the defendant, plaintiff has already initiated criminal action against him on 15/02/2024 & the present suit is filed on 20/02/2024.

19] Through the present application, plaintiff prayed for i) issuance of temporary injunction order prohibiting the defendant from harming, disturbing the customers or vendors of the plaintiff company in any manner, whether by phone, in person, or through misleading action till disposal of the suit, ii) an appropriate temporary injunction order regarding the defendant should not start the same business belonging to the plaintiff company till disposal of the suit. It is pertinent to note that, plaintiff has not submitted any document which reveals that there is any agreement which imposes the condition upon defendant that he should not start the same business belonging to the plaintiff company. Plaintiff has submitted affidavit of one witness Mr. Amit Nalavade for showing the fact that defendant has contacted the clients of the plaintiff company for soliciting the business with him.

20] With respect to the alleged issue, learned advocate of the defendant relied upon above cited supra & submitted that no injunction can be granted against an employee after the termination of his employment, restraining him from carrying on a competitive trade. In the present context, it is necessary to have look over Sec. 27 of the Contract Act, sec. 27 provides for the "Agreement in restraint for trade void- Every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void". Above cited supra at Sr. no. ii & iii relied upon by the learned advocate for the defendant are applicable to the present case. The ratio laid down in the above cited supra no injunction can be granted against employee after termination of his employment, restraining him from carrying on a competitive trade is applicable to the present case.

21] Moreover, in the above cited supra Wrap Knits Pvt.Ltd & Anr. Vs. Anju Sharma @ Anu Sharma & Anr, it is observed that,

In percept D'Mark (P) Ltd. v. Zaheer Khan, (2006) 4 SCC 227, in para 63 it was observed as under:

"Under Section 27 of the Contract Act- (a) a restrictive covenant extending beyond the term of the contract is void and not enforceable, (b) the doctrine of restraint of trade does not apply during the continuance of the contract for employment and it applies only when the contract comes to an end, (c) as held by this Court in Gujarat Bottling v. Coca-Cola this doctrine is not confined only to contracts of employment, but is also applicable to all other contracts."

"In the case of Niranjan Shankar Golikari v. The Century Spinning and Mfg. Co. Ltd., AIR 1967 Supreme Court 1098, it was observed that, it is a general principle of the Common Law that a person is entitled to exercise his lawful trade or calling as and when he wills and the law has always regarded jealously and interference with trade, even at the risk of interference with freedom of contract as it is public policy to oppose all restraints upon liberty of individual action which are injurious to the interests of the State. An employer, for instance, is not entitled to protect himself against competition on the part of an employee after the employment has ceased but a purchaser of a business is entitled to protect himself against competition per se on the part of the vendor. This principle is based on the footing that an empoyer has no legitimate interest in preventing an employee after he leaves his service from entering the service of a competitor merely on the ground that he is a competitor."

22] Considering all these aspects, I am of the view that plaintiff has failed to make out prima-facie case. Balance of convenience does not lie in favour of the plaintiff. The proving of balance of convenience, irreparable loss totally dependent on proving of prima-facie case. Consequently, I answer point nos. 1 to 3 in negative.

AS TO POINT NO. 4 :-

23] As I answer point nos.1 to 3 in negative, I proceed to pass following order: —

ORDER

Plaintiff's application below (Exh.5) stands rejected.

PRANITA SUHAS PATIL

Digitally signed by PRANITA SUHAS PATIL
Date: 2024.11.21 17:32:12 +0900

Kagal. **(Pranita S. Patil)**
Date : 19/11/2024 **Jt. Civil Judge Junior Division,**
Kagal.