



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 17<sup>TH</sup> DAY OF DECEMBER 2025**

**PRESENT**

**THE HON'BLE MR. JUSTICE R.DEVDAS**

**AND**

**THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI**

**REGULAR FIRST APPEAL NO. 100055 OF 2018 (MON)**

**BETWEEN:**

THE MANAGING DIRECTOR  
KARNATAKA URBAN INFRASTRUCTURE,  
DEVELOPMENT AND FINANCE CORPORATION,  
NAGARABHIVRUDDI BHAVAN, #22,  
17<sup>TH</sup> F-CROSS, OLD MADRAS ROAD,  
INDIRA NAGAR, BENGALURU-560038,  
REP. BY THE AUTHORIZED AUTHORITY  
AND COMPANY SECRETARY,  
SRI. A. KARTHIK, AGE: 38 YEARS,  
OCC: COMPANY SECRETARY,  
R/O: BENGALURU-560038.

...APPELLANT

(BY SRI. N.G.RASALKAR, ADVOCATE)

**AND:**

1. M/S OM SAI ELECTRICAL  
A PROPRIETARY CONCERN,  
REP. BY ITS PROPRIETOR,  
SRI. MAHESH S/O. SHIVAJI RAO JADHAV,  
AGE: 48 YEARS, OCC: BUSINESS,  
R/O: MARATHA COLONY, DHARWAD.

2. THE DEPUTY COMMISSIONER  
KARWAR.

...RESPONDENTS

(BY SRI. BAHUBALI A.DANAWADE AND  
SRI. N.L.BATAKURKI, ADVOCATE FOR R1;  
SRI. P.N.HATTI, HCGP FOR R2)

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Location: HIGH  
COURT OF  
KARNATAKA



THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION 96 READ WITH ORDER 41 RULE 1 AND 2 OF CPC 1908 READ WITH SECTION 5(i) OF THE KARNATAKA HIGH COURT ACT, 1961 AGAINST THE JUDGMENT AND DECREE DATED 28.07.2017 PASSED IN O.S.NO.5/2012 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE, KARWAR, DECREETING THE SUIT FILED FOR RECOVERY OF MONEY.

THIS REGULAR FIRST APPEAL COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE R.DEVDAS  
AND  
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

**ORAL JUDGMENT**

(PER: THE HON'BLE MR. JUSTICE R.DEVDAS)

This Regular First Appeal is filed at the hands of defendant No.1 in O.S.No.5/2012 on the file of the learned Principal Senior Civil Judge, Karwar being aggrieved of the judgment and decree passed on 28.07.2017.

2. For the sake of convenience, the parties shall be referred to in terms of their ranking before the trial court.

3. The suit was filed by the plaintiff M/s Om Sai Electrical, a proprietorship concern seeking to declare that defendant Nos.1 to 4 are jointly and severally liable to pay a sum of Rs.33,05,776/- to the plaintiff along with interest



at the rate of 12% p.a. from the date of the suit till the date of realization. It was contended by the plaintiff that a works contract was awarded to the plaintiff who is a Class-I Electrical Contractor, at the hands of defendant No.1 on 23.12.2004 for execution of electrical works for providing 11KV overhead express feeder transmission lines, transformers centres and other allied accessories at proposed raw water intake jack well pumping station, intermediate pumping station and staff quarters, water treatment plant, booster station etc., at Sirsi. The contract was a package contract in Package No.2207B. It was contended that initially value of the contract was Rs.57,13,890/- and the time fixed for completion of the works was nine months. The work order was issued to the plaintiff on 23.12.2004. However, when the plaintiff started erecting electrical poles along Siddapur road, the officials of HESCOM interrupted the work of the plaintiff and forced him to stop the work on the ground that plan of the work has not been obtained and prior sanction was not obtained from



the HESCOM by the officials of defendant No.1. It was contended that after delay of nearly 280 days the works were re-commenced after the plan was sanctioned at the hands of HESCOM. It is contended that rates approved in the year 2004 cannot be made applicable to the works which were commenced late in the month of August, 2005. It was contended that the new route sanctioned by the HESCOM officials forced the plaintiff to carryout works in Siddapur road through a thick forest. The execution of the work in the thick forest caused further difficulty to the plaintiff in carrying men and material through the thick forest. All this was brought to the notice of defendant No.1, and defendant No.1 and other officials of defendant No.1, namely, defendant Nos.2 and 3 assured the plaintiff that they were re-fix the rates taking into consideration the delay in commencing the work and the additional burden which would be incurred by the plaintiff. It was contended that although defendant No.1 is a government company and strict compliance of requirement of law and the terms of the



contract was mandated, nevertheless, no written agreement was made between the parties having regard to subsequent changes in the works to be undertaken by the plaintiff. Various other averments are made, which may not be necessary for consideration at this point of time in this appeal, since question of delay and the suit is hit by law of limitation has been raised at the hands of defendant No.1 before us. For short, the plaintiff claimed that it was entitled for payment of Rs.33,05,776/- along with interest for the delayed period.

4. Learned counsel for defendant No.1 submitted that issue No.1 was framed by the trial court, which is as follows:

*"1. Whether the defendants No.1 and 4 do prove that the present suit is hit by law of limitation as the plaint is not filed within 3 years from 18.12.2008 as narrated in para 3 of the written statement of first defendant?"*



5. The trial Court, while considering issue No.1 is of the considered opinion that the plaintiff got issued a legal notice through defendant No.1 on 27.02.2012 and the plaintiff has placed on record Exs.P29 to 32, postal acknowledgements, which clearly reveal that all the defendants have received the said notice. The trial Court has further opined that since the legal notice was received by the defendants, but they failed to give a reply to the legal notice, cause of action arose for the plaintiff to file the suit within three years from 27.02.2012. Learned counsel submits that such a finding is not supported by any provision of law. Learned counsel submits that when admittedly, the plaintiff earlier got issued a legal notice on 04.03.2009 and a reply was given by defendant No.1 on 04.04.2009, declining to accede to the claim of the plaintiff and clearly refused to accept the contention of the plaintiff, cause of action, at best arose for the plaintiff from 04.04.2009. If 04.04.2009 is reckoned as the date of cause



of action for the plaintiff, the suit should fail, since it was not filed within three years from 04.04.2009.

6. Learned counsel for the plaintiff however contended that defendants No.1 to 3 orally assured the plaintiff that his case is being considered and final decision will be taken even after a reply was given by defendant no.1 on 04.04.2009. Learned counsel would also submit that the date 04.04.2009 cannot be taken as the date when the cause of action arose for the plaintiff. Learned counsel submits that if an opportunity is give to the plaintiff, the plaintiff will make endeavour to place on record the evidence showing the date when which the reply notice was received by the plaintiff. If possible, defendant No.1 should also be directed to place the material showing when the reply notice dated 04.04.2009 was dispatched to the plaintiff. Learned counsel would submit as an alternative that having regard to the facts of the case, there is a continuous cause of action for the plaintiff and therefore, the trial Court is right in opining that the final notice was



issued by the plaintiff on 22.07.2012 and failure on the part of defendants to give a reply to the legal notice should be taken as the cause of action arising for the plaintiff.

7. Learned HCGP appearing for defendant No.4/Deputy Commissioner submits that there being no pleadings at the hands of the plaintiff as to why the defendant no.4 has been arrayed as a defendant in the suit and there being no cause of action against defendant no.4, the suit has to be dismissed against the defendant no.4. No acceptable reason is forthcoming from the impugned Judgment as to why the defendant no.4 is also held to be jointly and severally liable to repay the plaintiff. Learned HCGP submits that from the pleadings of the plaintiff and the material placed on record, there is nothing to show that respondent No.4/Deputy Commissioner was in any way involved in the contract between the plaintiff and other defendants. Merely by showing that the Deputy Commissioner was supervising the works entrusted to the plaintiff, that by itself will not vest any right in the plaintiff



to claim that there is cause of action against defendant No.4. Learned HCGP would therefore submit that the suit as against defendant no.4 should be dismissed.

8. Heard the learned counsel for the appellant/defendants No.1 to 3, learned counsel for the plaintiff, learned HCGP for defendant No.4 and perused the memorandum of appeal and original records.

9. Since a contention has been raised by the learned counsel for the appellant/defendants No.1 to 3 that Issue No.1, question of limitation has not been considered in the proper perspective at the hands of the trial Court, this Court has gone through the evidence placed on record, deposition and finds that the plaintiff has admitted the fact that earlier a legal notice dated 04.03.2009 was got issued and a reply dated 04.04.2009 at Ex.D.2 has been given by the defendants to the plaintiff. In the deposition of the plaintiff, it is contended that even after such a reply is given by the defendants, nevertheless it was orally communicated



to the plaintiff that the defendants are considering the issue and are awaiting further directions of the higher authorities. This Court also finds that although elaborate findings are given by the trial Court regarding Issue No.1, nevertheless this Court does not find reference to any provision of law and even in the memorandum of appeal, in the grounds raised by the appellant/defendants No.1 to 3, there is no reference to any relevant provision of the Limitation Act, which should have been considered by the trial Court. We find that the relevant provision of the Limitation Act, 1963 which may fall for consideration may be Article 18, Article 27 and Article 55 and the substantial provision contained in Section 15, Section 18 and Section 19 etc., It is also possible that the parties may pray for consideration of Article 113, which is a residuary clause. This Court is also of the considered opinion that the position whether 04.04.2009 should be reckoned the date when cause of action arose for the plaintiff or whether the said reply was served on the plaintiff on the subsequent date and therefore



the cause of action would get extended till the date when which reply was received by the plaintiff, are all required to be considered at the hands of the trial Court. It has been submitted by the learned counsel for the plaintiff that if the matter is remanded, the plaintiff would endeavour to place on record the date when which reply given by the defendants was received by the plaintiff. At the same time, defendants No.1 to 3 who got issued the reply notice dated 04.04.2009 may also place on record any material to show when the reply notice was dispatched and when the plaintiff received the same.

10. Insofar as the contention of the learned HCGP regarding defendant No.4 is concerned, we are of the considered opinion that the trial Court has to reconsider the issue whether defendant No.4 is in any way responsible and whether it could be held that defendant No.4 is jointly and severally liable to repay the plaintiff having regard to the evidence placed on record.



11. In that view of the matter, this Court proceeds to pass the following :

ORDER

- (i) The appeal is allowed in part.
- (ii) The impugned Judgment and Decree dated 28.07.2017 passed in O.S. no.5/2012 by the Principal Senior Civil Judge, Karwar is hereby quashed and set aside.
- (iii) The matter stands remanded back to the trial Court to re-consider the Issue No.1 regarding limitation.
- (iv) The parties shall be permitted to lead additional evidence both documentary as well as oral evidence.
- (v) The trial Court is not precluded from re-considering other issues also, more particularly, the liability insofar as defendant No.4 is concerned.
- (vi) All contentions are left open.
- (vii) The parties are directed to appear before the learned Principal Senior Civil



Judge, Karwar on 29.01.\*2026, without waiting for further notice from the trial Court.

- (viii) The learned Principal Senior Civil Judge, Karwar is requested to endeavour to dispose of the suit as expeditiously as possible.

**Sd/-  
(R.DEVDAS)  
JUDGE**

**Sd/-  
(B. MURALIDHARA PAI)  
JUDGE**

MBS/CKK  
Ct:vh List No.: 1 Sl No.: 26

\*Corrected vide chamber order dated 23.01.2026.