



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

REGULAR FIRST APPEAL NO. 114 OF 2020 (MON)

BETWEEN:

1. THE MANAGING DIRECTOR,
KPCL, NO.82,
SHAKTHI BHAVAN,
RACE COURSE ROAD,
BANGALORE - 560 001.
2. THE TECHNICAL DIRECTOR
KPCL, NO.82,
SHAKTHI BHAVAN,
RACE COURSE ROAD,
BANGALORE - 560 001.
3. THE FINANCE DIRECTOR,
KPCL, NO.82,
SHAKTHI BHAVAN,
RACE COURSE ROAD,
BANGALORE - 560 001.
4. CHIEF ENGINEER (ELE AND DESIGN)
KPCL SUDARSHAN COMPLEX,
3RD FLOOR, NO.22/23,
SESHADRI ROAD,
BANGALORE - 560 009.

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Location:
High Court
of
Karnataka



5. SUPERINTENDENT ENGINEER (E)
KPCL ENGINEERING STATION DIVISION,
SHIVASAMUDRAM,
MALAVALLI TALUK,
MANDYA DISTRICT - 571 437.
6. EXECUTIVE ENGINEER (CIVIL),
KPCL, SHIVASAMUDRAM,
MALAVALLI TALUK,
MANDYA DISTRICT - 571 437.

...APPELLANTS

(BY SRI. SUMIT CHATTERJEE FOR SRI. PRADUMNA L N.,
ADVOCATES)

AND:

1. SRI. M S MAHESH
S/O. MALLASETTY,
AGED ABOUT 58 YEARS,
K.P.W.D. AND EX-KPCL
CONTRACTOR,
MANJUNATHA NILAYA,
N.E.S. EXTENSION,
SHETTHALLI ROAD,
MALAVALLI - 571 430.
2. THE CHIEF SECRETARY
SECRETARY TO GOVERNMENT,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE - 560 001.
3. THE CHAIRMAN
KPCL,
VIDHANA SOUDHA,



BANGALORE - 560 001.

...RESPONDENTS

(BY SRI. KRISHNAMURTHY G HASYAGAR., ADVOCATE FOR R1;
R3 IS SERVED AND UNREPRESENTED)

THIS RFA FILED UNDER SEC.96 OF CPC., AGAINST THE
JUDGMENT AND DECREE DATED 23.07.2018 PASSED IN
OS.NO.58/2017 ON THE FILE OF THE SENIOR CIVIL JUDGE,
MALAVALLI, PARTLY DECREETING THE SUIT FOR RECOVERY OF
MONEY.

THIS APPEAL, COMING ON FOR FURTHER HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S RACHAIAH

CAV JUDGMENT

1. This regular first appeal has been filed by the
appellants who were the defendants before the Trial Court.
Wherein, the case of the plaintiff has been decreed on
23.07.2018 passed in O.S.No.58/2017 on the file of Senior
Civil Judge, Malavalli.

2. The ranks of the parties before the Trial Court
henceforth will be considered as it is for the convenience.



Factual matrix of the case:

3. The case of the prosecution is that the plaintiff was a Class-I Civil Contractor. The defendants – Karnataka Power Corporation Limited (KPCL) had entered into an agreement dated 13.04.2015 with the plaintiff for laying a road of 500 meters length and 06 meters width at Mallikyatanahalli upto SFC, Shivanasamudra.

4. The letter of award dated 11.04.2015 was issued to the plaintiff and work had been assigned as per the said award. The work was about to be completed, however, the plaintiff was asked to do additional work without calling for any tender. The plaintiff after completing the said work has raised a bill for a sum of Rs.11,68,127/-. As the defendants did not pay the amount relating to the additional work the plaintiff has filed a suit for seeking the relief of directing the defendants to pay the amount as stated in the plaint.



5. On the contrary, the defendants had filed the written statement and submitted that the alleged extra work done by the plaintiff was enquired by the Committee by way of conducting joint survey. As per the said joint survey, the defendants had to pay a sum of Rs.3,13,875/- and a letter was written to the plaintiff on 06.07.2017 asking him to enter into supplementary agreement as required under the rules to make the payment. However, the plaintiffs have failed to do the same. In fact, the plaintiffs had not produced any documents relating to extra work done by him. The amount on which the plaintiff was claiming is exorbitant and they were not liable to pay the said amount.

6. The Trial Court has framed issues on the basis of the averments of the plaintiff and written statement and rendered the judgment and decree stating that the defendants were directed to pay a sum of Rs.11,68,127/- together with 9% interest per annum.



7. Heard learned counsel for the respective parties.

8. Learned counsel for the appellant/defendants submits that the impugned judgment passed by the Trial Court is against to the law, evidence and facts. Therefore, the same is liable to be set aside.

9. It is further submitted that the plaintiff has utterly failed to prove the case that extra work was entrusted to him to complete the said project and he has done the said work.

10. It is further submitted that none of the parties have produced the measurement book to demonstrate the actual work carried out by the plaintiff. In the absence of documentary evidence regarding additional work assigned to the plaintiff, the Trial Court ought not to have arrived at a conclusion that additional work has been done to the extent claimed by the plaintiff.



11. It is further submitted that as per the joint survey conducted by the defendants some additional works were carried out by the plaintiff without knowledge of the defendants. Considering the same the amount of Rs.3,13,875/- was fixed. However, the Trial Court without appreciating the evidence on record directed the defendants to pay the amount of Rs.11,68,127/- with interest at the rate of 9% per annum is erroneous and the said judgment and decree has to be set aside.

12. *Per Contra*, learned counsel for the plaintiff/respondent submitted that several documents were produced and six documents have been marked. Plaintiff has made several letter correspondences with defendant Nos.1 and 5.

13. It is further submitted that the cross-examination of P.W.-1 and evidence of P.W.-2 to P.W.-5 supported the nature of work done by the plaintiff. Ex-P.69 is the estimate and the defendants have not disputed the same. The defendants have not produced the



measurement books which required for real adjudication. Therefore, the Trial Court has rightly drawn the adverse inference and allowed the claim of the plaintiff. Therefore, the findings of the Trial Court is appropriate and it requires unaltered.

14. Heard learned counsel for the respective parties and perused the findings of the Trial Court in passing the judgment and decree of the plaintiff. The Trial Court on considering the averments of the plaint and also the written statements has formulated the following issues which are as follows:

ISSUES

- 1. Does the plaintiff prove that, he has carried out the extra work at the cost of Rs.11,68,127/- assigned by the defendants?*
- 2. Does the defendants prove that, SR rates used by the plaintiff in arriving at the estimate is not as per the work orders?*



3. *Does the plaintiff is entitled for the reliefs as sought for?*

4. *What order and decree?*

15. On considering the said aspect, the following points would arise for my consideration, they are:

a) Whether the findings of the Trial Court in respect of extra work carried out by the plaintiff is justified?

b) Whether the Trial Court is justified in passing the judgment and decree in favor of the plaintiff?

c) Whether the defendants prove that the plaintiff has not carried out the work as per the estimation claimed by him?

16. The point Nos. "a" and "b" are inter-connected with each other. Hence, these points would be considered together. Both P.W.-1 and D.W.-1 reiterated their respective pleadings. The pleadings of the respective parties would emerge that the plaintiff is a Class-I Civil Contractor and the defendant No.1 is the Managing



Director and the defendant No.2 is the Technical Director and the defendant No.3 is the Finance Director and defendant No.4 is the Chief Engineer (Electric & Designer) of KPCL, Bangalore, defendant No.5 is the Superintendent Engineer, defendant No.6 is the Executive Engineer (Civil) of KPCL, Shivana Samudra, defendant No.7 is the Chief Secretary at Government of Karnataka, defendant No.8 is the Chairman of KPCL, Bangalore.

17. The evidence of D.W.-1 would indicate that the plaintiff has made letter correspondence with defendant No.4 and brought to the knowledge of the department that additional work carries more money than the actual work entrusted to him. It is also admitted that the plaintiff had brought to the knowledge of the defendants in respect of the works to be carried out by using machines. Though, the defendant had admitted that the work carried out by the plaintiff has been mentioned in the measurement book, he failed to produce the said measurement book.



18. On going through the evidence of D.W.-1, he admitted that additional work was carried out by the plaintiff. However, he denied the price quoted by the plaintiff.

19. Be that as it may, the documentary evidence would indicate that the plaintiff had made several letter correspondences to the defendants regarding the work carried out by him and also the estimation of the said work. Though, the defendants relied on the report submitted by the joint survey, the fact remains that it has no evidentiary value for the reasons that the same has been disputed by the plaintiff and the cost and expenditures has not been assigned on the actual value.

20. On going through the findings of the Trial Court, it appears that no irregularity has been committed by the Trial Court in appreciating the evidence in rendering the decree. Hence, I decline to interfere with the said findings.



21. In the light of the observations made above,
the points which arose for my consideration are answered

POINT Nos. "a" and "b" - AFFIRMATIVE.

POINT No. "c" - NEGATIVE.

22. Accordingly, I proceed to pass the following:

ORDER

- i. This Regular First Appeal stands ***dismissed***.
- ii. The Registry is directed to draw decree accordingly.

**Sd/-
(S. RACHAIAH)
JUDGE**

NM/-