

C.R.P.67

Govt. of Karnataka

Form No.9 (Civil)  
Title Sheet for  
Judgments in Suits  
(R.P.91)

TITLE SHEET FOR JUDGMENTS IN SUITS  
IN THE COURT OF THE VIII ADDITIONAL CITY CIVIL  
AND SESSIONS JUDGE (CCH-15) AT BENGALURU

Dated this the 17<sup>th</sup> day of June, 2021.

PRESENT:

Sri MALLANAGOUDA, B.Com.,LL.M.,  
VIII Additional City Civil and Sessions Judge (CCH-15),  
Bengaluru.

ORIGINAL SUIT No.4545/2012

PLAINTIFF : M/s. Nandi Infrastructure  
Corridor Enterprise Limited, A  
Company registered under The  
Companies Act, 1956 having its  
registered Office at No.1, Midford  
House, Midford Garden, Off M.G.  
Road, Bangalore – 560 001,  
represented by its Authorised  
Signatory – A. Rudragoud, son of  
Thippareddy, aged about 53  
years.

(By Sri K. Suman, Advocate)

-VERSUS-

DEFENDANT : Mr. H.D. Devegowda,  
Major in age,  
Defendant's father's name is not  
known to the plaintiff,  
Former Prime Minister of India,  
Padmanabha Nagar,  
Bangalore – 560 070.

(By Sri G.R. Prakash, Advocate)

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Date of Institution of the Suit : 27-06-2012

Nature of the Suit (Suit on : Declaration/Compensation.  
pronote, Suit for declaration  
and possession, Suit for injun-  
ction etc,)

Date of the commencement : 04-12-2013  
of recording of the evidence

Date on which the Judgment : 17-06-2021  
was pronounced

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Year/s Month/s Day/s  
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Total duration : 8 years, 11 months, 20 days.  
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(MALLANAGOUDA)  
VIII Additional City Civil and Sessions Judge,  
Bengaluru.

J U D G M E N T

This suit is filed by the plaintiff Company seeking damages of Ten Crore rupees and permanent injunction restraining the defendant from making defamatory comments or statements against the plaintiff Company in any media or any other means of mass communication.

2. The brief facts of the plaintiff's case are as under –

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The plaintiff is reputed business/industrial establishment and a Company incorporated under The Companies Act, 1956 represented by its Authorised Representative – Rudragoud. Plaintiff Company has taken up the prestigious Bangalore – Mysore Infrastructure Corridor Project ('BMICP' for short) – which is a mega integrated infrastructure project and is also one of the biggest Build-Own-Operate-Transfer ('BOOT' for short) Project in India. Plaintiff Company has completed the road component of Section 'A' of the Project substantially and kept open the same for the traffic. The BMICP is the first project in the Country to use satellite imageries captured by the Indian National Remote Sensing Agency (NRSA), areal photograph and other various innovative methods like Geo-Information System (GIS) mapping, total station survey etc., to identify topography and lands needed for the projects. Further, the plaintiff Company now constructs the bridges in four months – which would taken two years to complete because of the developments made by the plaintiff. The plaintiff Company has high corporate responsibility towards the social, economic and

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ecological issues. The plaintiff Company has de-silted and developed various lakes to ensure proper ecosystem and to preserve the water body. Further, the plaintiff Company has utilized fragmented and major portion of uncultivable land for the project. Each one of the land owners who has consented for land acquisition will be given with 60 feet x 40 feet residential site per acre of land acquired for the project in a well developed lay-out. Plaintiff Company has comprehensive and Government approved resettlement and rehabilitation package for the project affected people and families.

Mr. Ashok Kheny is the Promoter and Managing Director of the plaintiff Company. He hails from a highly respected family and is well-educated and highly qualified. He has secured B.E. (Electrical Engineering) degree from the prestigious Karnataka Regional Engineering College, Suratkal and pursued his education further and acquired an M.S. (Management Science and Engineering) degree from Worcester Polytechnic Institute, Massachusetts, U.S.A. He has over 37 years of experience in engineering design and

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construction of infrastructure projects like transportation, telecommunications, roads, bridges etc., in the United States of America. He is the founder of SAB Engineering and Construction Inc. in U.S.A. He has also implemented several major infrastructure projects in U.S.A. He has rendered immense social service by building village roads, schools, temples, community halls and has provided wind solar power system, scholarship to bright students in Bidar district. He has built various new temples and renovated old temples around BMICP area. Due to his magnificent contribution to the society and the country, Mr. Ashok Kheny was honoured by Mr. Ronald Reagan, the then President of the United States of America with the 'Outstanding Businessman of the year of a Minority Community Award' in the year 1987. Further, Mr. Ashok Kheny has received an award from the World Academy of Productive Sciences, Canada and another award from the Kashi Jagadguru of Varanasi. He has been facilitated by numerous associations in Karnataka in recognition of the services and the yeoman works contributed to the society. The plaintiff Company has

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built up good reputation and image for itself by practicing high quality of business ethics and for its contribution towards Corporate responsibility for socio-economic and environmental issues.

The defendant is a politician having occupied many positions in his political career. On 28.6.2011 at 6:00 p.m., an interview of the defendant was telecasted in the Kannada Television news channel – Suvarna 24 x 7 under the caption “Gowdara Garjane”. In the said interview, one Anchor – Mr. Hamid Palya has interviewed the defendant and in the said interview, the defendant has made unnecessary and slanderous allegations / comments on the plaintiff Company and also Mr. Ashok Kheny. In the said interview, the defendant has stated that the plaintiff Company is looting the public money, and that the project the plaintiff Company is operating on BOOT basis is a 'LOOT project'. Further, the defendant has addressed the plaintiff Company and Mr. Ashok Kheny as 'Land Mafia'. He has also attempted to mislead the watchers/public with a set of papers claiming to be

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documents i.e., agreements that were entered into between the State of Karnataka and other institutions and that the said documents were signed by His Excellency the Governor of Karnataka and that certain foreign governmental agencies and institutions were driven away - thereby implying that there was conspiracy and corruption to favour the plaintiff Company to execute the projects to its advantage and that the plaintiff Company has colluded with certain government officials in cheating the poor farmers and that in one particular case, 20 acres of horticultural land of a Muslim farmer is destroyed and that the defendant took up his cause and thereafter goons were sent after him and that the project that is being executed by the plaintiff Company and Mr. Ashok Kheny are involved in a huge scam involving about Rs.6,250 Crores and that it is no lesser than the 2G scam that has rocked the country presently etc.

The said interview of the defendant would give an ordinary watcher and the public an impression that the plaintiff Company is indulging in mafia activities of

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'land grabbing' of the poor farmers and Mr. Ashok Kheny is a notorious 'Don' and that Mr. Ashok Kheny and/or the plaintiff Company have colluded with certain government officials to indulge in dishonest and corrupt practices and that he is a man without character etc. In fact, the statement made by the defendant in the television channel interview is totally false, baseless and imaginary and the same is far from truth. Right from the beginning of the implementation of the BMICP, the defendant has been targeting the plaintiff Company and Mr. Ashok Kheny with certain motives and inexplicable reasons. The defendant has intentionally projected the plaintiff Company and Mr. Ashok Kheny as dishonest and corrupt and what is stated by him is absolutely false and far from the truth. The defendant being a politician of some stature and having occupied high political offices, has violated all norms of ethics, decency and responsibility and has made highly defamatory comments/allegations against the plaintiff Company and Mr. Ashok Kheny without there being any truth in the matter and without exercising due care and caution needed while making

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such slanderous and defamatory comments and allegations against the plaintiff Company and Mr. Ashok Kheny. The defendant has made such comments/allegations with the sole objective of bringing the plaintiff Company to disrepute and its standing in the business circle and to tarnish the professional, social and personal image of Mr. Ashok Kheny. Consequent to the *per se* defamatory comments / allegations made by he defendant against the plaintiff Company, the plaintiff Company has suffered immense damage to their image and reputation and Mr. Ashok Kheny, his family members and the executives of the plaintiff Company have been receiving innumerable phone calls and enquiries with respect to the comments/allegations made by the defendant in the said T.V. interview doubting and questioning the fair dealings of the plaintiff Company and the honesty, integrity, character, conduct and moral uprightness of Mr. Ashok Kheny among the other things. Since the date of telecast of the said interview by the Kannada news channel "Suvarna 24/7", the Executive of the plaintiff Company Mr. Ashok Kheny and his family

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members have been put to untold mental agony, public shame, humiliation and disgrace. They are highly disturbed and depressed. The said interview of the defendant has caused great harm to the image and reputation of the plaintiff Company for its fair business practices and the standing and reputation of Mr. Ashok Kheny as an honest and upright businessman. The damage caused to the plaintiff Company due to the defamatory statement made by the defendant cannot be compensated in terms of money. However, the same is modestly estimated by the plaintiff Company and Mr. Ashok Kheny at Rs.10,00,00,000/- and Rs.5,00,00,000/- respectively. Therefore, the defendant is liable to pay Rs.10,00,00,000/- to the plaintiff Company.

Under the facts and circumstances, the plaintiff Company and its Managing Director Mr. Ashok Kheny got issued notices dated 12.9.2011 to the defendant calling upon him to tender an unconditional apology in writing for having made the *per se* defamatory comments/allegations against the plaintiff Company

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and further get the same telecast in the same Kannada news channel "Suvarna 24/7" and further pay or remit the sum of Rs.10,00,00,000/- to the plaintiff Company and Rs.5,00,00,000/- to Mr. Ashok Kheny, for which they have become entitled to by way of damages for the loss of their image, reputation and mental agony. Though the defendant has received the said notice, he has not replied nor has he complied with the demand made in the said notice. Therefore, the plaintiff is constrained to file the present suit seeking damages and permanent injunction.

3. On the other hand, the defendant has filed written statement as under –

The suit is not maintainable. It is devoid of merits and liable to be dismissed in limine. There is a fundamental right of freedom of speech granted by the Constitution of India and any opinion and fair criticism of any individual or organization in its act concerning a public activity or an activity in which members of public have a vital concern cannot be restrained being violative of the right of freedom of speech and expression.

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Plaintiff has deliberately with a *mala fide* intention has failed to disclose that he has been making baseless, scurrilous, untruthful and wild allegations against the defendant and his family members on the same issue which is subject matter of the present litigation and hence, the present suit is nothing but the gross abuse of the process of Court.

In fact, subject matter of the litigation being an alleged interview granted by the defendant is nothing but a repetition and reassertion of facts which are part of the public record, public documents, Court proceedings and pleadings from the year 2006. On similar facts, the defendant has issued public advertisement in the newspaper. He has published a book which has been converted into a public interest litigation and the said matter is pending before the Hon'ble Supreme Court of India and the suit of the plaintiff is barred by limitation.

Plaintiff is a private Company undertaking a public private partnership project and is accused of fraudulently trying to usurp the farmers' lands in and

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around Bangalore and the defendant, as a representative of public, elected Member of Parliament and a former Prime Minister, has taken up the cause of the poor and downtrodden farmers and land losers. The present suit is nothing but an attempt to gag the voice of truth and social justice and to prevent a public fraud running into Rs.50,000 Crores from being exposed due to educated public awareness. Hence, the present suit has been filed with an oblique motive and deserves to be dismissed. The plaintiff has suppressed vital and relevant facts only with a view to obtain an interim order and restrain by trying to mislead the Court, while knowing fully well that no defamation can be made out by mere reassertion of true facts, and the plaintiff is put to strict proof of the assertion of its reputation which are contrary to record, facts, fair and widespread public perception. The plaintiff might be registered under the Companies Act, but its reputation as business establishment as stated in the plaint is totally incorrect. The BMICP is a Public Private Partnership Project for the State of Karnataka as it was originally conceived and conceptualized and to be

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implemented under the BOOT scheme, – but the plaintiff has fraudulently tempered with the scope of the project and have turned into a vehicle of massive loot of thousands of Crores at the cost of the poor farmers. A Writ Petition under Article 32 of the Constitution of India is filed by U.R. Anantha Murthy – which is pending before the Hon'ble Supreme Court of India and as after being apprised of the true facts, the plaintiff has not been getting any reliefs in his Contempt Petition. Hence, this suit is filed to save face and to mislead the members of the public and investors. Further, the defendant has also written to various Chief Ministers of Karnataka at various points of time and the Prime Minister, Finance Minister demanding probe and registration of criminal cases and the same has been widely reported in the media. The project is purely a road project and it is the responsibility of the implementing agency to follow the directions of the State Government and cannot claim a special status for itself. The plaintiff has fraudulently altered the scope of the entire technical feasibility report which was based on inputs of international

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agency and consortium partner. The Frame Work Agreement dated 3.4.1997 ('FWA' for short) based on the Infrastructure Corridor Project Technical Report ('ICPTR' for short) has been entered into by the State of Karnataka when the defendant was the Chief Minister of the State – which is the basic document for the project. Other averments of Para 3 of the plaint are false and denied. Plaintiff has violated all norms of the ICPTR by laying asphalted road instead of cement concrete road as required under the Frame Work Agreement. The quality of the road is very poor and the accidents have become a regular phenomenon. Averments of Para 4 of the plaint about the social responsibility of the plaintiff Company are not true. All the averments made in the said paragraph are part of the Frame Work Agreement. The plaintiff has violated the norms, terms and conditions and secured with illegal collusion with the officials of the state more than 700 acres of land in and around the peripheral road and the same has been submitted to the Hon'ble Supreme Court in the affidavit of the Chief Secretary of Karnataka. Those facts itself show the *modus operandi*

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of the plaintiff in grabbing the land. Averments of Para 4(a) of the plaint regarding rehabilitation of land losers are totally misleading. In fact, not even a single land loser has been given with a registered document to show that the government approved resettlement and rehabilitation package under the ICPTR and the Framework Agreement has been implemented. In fact, as per the endorsement issued by the BMICPA, the plaintiff has formed unlawful lay-out of sites.

Averments of Para 5 of the plaint with regard to self-glorification of Mr. Ashok Kheny is in no way connected to the prayer sought for in the plaint. Further averments regarding the experience of Mr. Ashok Kheny is not supported by any documents. Averments of Paras 6 and 6(a) of the plaint are nothing but to claim sympathy of the Court.

Averments of Para 7 of the plaint that the plaintiff has built up good reputation and image for itself by practicing high quality of business ethics is totally false and unbelievable. In fact, the land of the farmers was grabbed with brutal attacks, buildings were demolished

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without any humanity with the collusion of certain State officials and police support. The plaintiff cannot mix up the issue of the alleged damage to it with that of its Managing Director. If at all the reputation of its Managing Director is lost, he is at liberty to initiate legal proceedings. Averments of Para 8 of the plaint with regard to the defendant shows the mean mentality of the plaintiff. In fact, the defendant is in active politics over half a century. He has held various positions in the State and the Centre. The defendant was the Member of Legislative Assembly of Karnataka for various times. He was Minister for various departments. He was and is a Member of Lok-Sabha. He held the highest democratic post of Prime Minister of India. In fact, during the Chief Ministership of the defendant only, the Frame Work Agreement was entered into between the Government of Karnataka and the plaintiff Company. It is the defendant who had shown keen interest in implementing the project, and the plaintiff is only an implementing agency.

Averments of Para 9 of the plaint are matter of record. In fact, BMICP has been declared by the

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Hon'ble Supreme Court as a public project. The land acquired by the State has been handed over to the implementing agency on the basis of lease at Rs.10/- per acre returnable after 30 years and the private lands are acquired by the State of Karnataka and handed over to the plaintiff for implementation of the project. The entire land required for the project is identified in the ICPTR by the plaintiff Company and it was accepted by the State when the defendant was the Chief Minister of the State. But, on later dates, by the change of the Government, with the collusion of the officials, got changed the entire land requirement and restricted to the lands in and around Bangalore. The defendant is fighting for the cause of the farmers who are losing the lands illegally to the plaintiff Company. The plaintiff is worried about exposing of the unlawful acts, deeds and things committed by it as always the defendant is striving hard to uphold the rule of law. Since the project has been declared for the public purpose by the Hon'ble Supreme Court, the citizens have every right to speak about the project and none can be restrained from speaking about the project, since the same is the

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product of tax-payers' money. Any tax-payer is at liberty to speak about the project and any restrictions would violate the fundamental rights guaranteed to the citizens under the Constitution.

The interview telecasted on 28.6.2011 contained all the truths. The question of land grabbing by the plaintiff Company has already been admitted by the State of Karnataka by filing an affidavit before the Hon'ble Supreme Court that the plaintiff Company has already illegally secured more than 750 acres of land in and around peripheral road around Bangalore beyond the Frame Work Agreement – which shows the veracity and genuineness of the statement made by the plaintiff.

Averments of Para 10 of the plaint that the interview has given an impression that the plaintiff is a 'land grabber' and its Managing Director is a 'don' is the creation of the plaintiff – which the defendant has never uttered. In fact, the alleged interview of the defendant is nothing but a mere repetition and reassertion of facts which are part of the public record and the defendant has, on similar acts, issued public advertisement in the

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daily newspapers. He has published a book which has been converted into a public interest litigation and the same is still pending before the Hon'ble Supreme Court and the suit of the plaintiff is barred by limitation.

Averments of Para 11 of the plaint are false and denied. Statement made by the defendant in the television interview are true and based on record. In fact, the defendant was instrumental in preparing the project and just because his interest in developing the State and creating infrastructure, the Frame Work Agreement was got signed with the plaintiff. But, after change of Government, the plaintiff Company indulged in various illegal activities, because of which the entire alignment as agreed under the ICPTR and FWA was got changed to suit the convenience of the plaintiff Company to exploit the poor farmers and gain illegally.

Averment of Para 12 of the plaint clearly amplifies the mean mentality of the plaintiff Company. The plaintiff terms the person who held the post of Prime Minister of India is of 'some stature'. The defendant never violated any norms of ethics, decency and

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responsibility. The defendant thinks that by speaking any defamatory comments/allegations against the plaintiff, nothing can be achieved, as the entire matter is seized of before the Hon'ble Supreme Court of India.

Averments of Para 13 of the plaint are not maintainable in law, as the plaintiff Company cannot maintain a suit of present nature on behalf of its Board of Directors.

Averments of Para 14 of the plaint are untenable. Averments of Para 15 of the plaint are not related to the cause of action or maintainability of the suit. There is nothing to show that the interview of the defendant caused damage to the plaintiff Company. In fact, all the comments made by the defendant are totally true and based on record.

Averments of Para 17 of the plaint that the plaintiff Company has been put to untold mental agony and all those connected with it are spending sleepless nights, are far from truth. The legal notice was issued after three months from the telecast of the interviews and the suit is filed one year later – which shows the

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seriousness of the matter. The compensation amount claimed by the plaintiff itself shows the intention of the plaintiff Company i.e., just to keep the defendant from bringing all the illegalities, irregularities, collusion, unfair dealings, illegal enrichment by the plaintiff Company to light.

Averments of Paras 18 and 19 of the plaint are regarding legal notice, – the same are the matter of record. There is no cause of action to file the suit. The BMICP has been declared as a public project and hence, the citizens – out of whose tax payments the project is being carried have a right to oversee implementation of the project. Merely because the plaintiff Company has been contracted to implement the scheme under BOOT scheme, the same cannot give the plaintiff Company to close all its doors from the public domain. Hence, the suit of the plaintiff is liable to be dismissed.

4. On the basis of the above facts, the following Issues have been framed –

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I S S U E S

1. Whether the plaintiff Company proves that the defendant made defamatory statement in Suvarna 24/7 channel on 28.06.2011 and it was telecasted at 6.00 pm under the caption "Gowdara Gharjane" and it was made with malafide intention and it caused damage to the reputation and image of the plaintiff Company as alleged?
2. Whether plaintiff Company proves that it is entitled for Rs.10.00 corers by way of damages for loss of image, reputation and agony an account of unjust, illegally *per se* defamatory comments / allegations as alleged?
3. Whether the plaintiff Company proves that it is entitled for restraining order against the defendant or anybody else acting under in law or on his behalf, from making / uttering / speaking /writing the defamatory

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comments / statements against the plaintiff Company in any media / newspaper / television / radio or through any other means of mass communication as prayed?

4. Whether the defendant proves that his statements are based on records and not caused any damage to the Plaintiff Company?

5. Whether the defendant further proves that his statement made in the interview telecast on 28.06.2011 was well within the ambit of freedom of speech as claimed?

6. What Order or Decree?

5. In support of its case, the plaintiff Company has examined its Senior Vice President (Accounts) and the Authorised Signatory as P.W.1 and got marked documents as per Exs.P.1 to P.14.

6. Defendant has not produced any evidence on his behalf.

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7. Heard arguments.

8. My answers to above Issues are as under –

ISSUE No.1 - Affirmative;

ISSUE No.2 - Partly in affirmative and partly in negative;

ISSUE No.3 - Affirmative;

ISSUE No.4 - Negative;

ISSUE No.5 - Negative;

ISSUE No.6 - As per final order,

for the following –

R E A S O N S

9. ISSUE NOs.1, 4 AND 5 : Since all these Issues are inter-related with each other, they are being taken up together for discussion at a stretch in order to avoid repetitive discussion of facts.

10. It is the case of the plaintiff that plaintiff is a Company incorporated under the Companies Act; it has taken up prestigious BMICP; it is a kind of biggest BOOT project in India; it has got good reputation and image by practicing high quality business ethics and

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corporate responsibility towards social, economical and ecological issues; on 28.6.2011, the Kannada news channel by name “Suvarna 24/7” has telecasted the interview of the defendant under the caption “Gowdara Garjane” – in which, the defendant has made unnecessary slanderous allegations against the plaintiff Company and its Managing Director – Ashok Kheny by stating that the plaintiff Company is looting public money and the project undertaken by the plaintiff Company on BOOT basis is a loot project; the statements made by the defendant in the said interview are defamatory to the plaintiff Company; the same are made by the defendant with an intention to cause damage to the reputation of the plaintiff Company; due to the said interview given by the defendant, the plaintiff Company has sustained loss to its reputation.

11. On the other hand, though the defendant has admitted about giving interview to the news channel, he denied about causing damages to the reputation of the plaintiff Company because of his statement about the plaintiff Company in the said interview. The defendant has contended that as there are some irregularities and

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illegalities in the project undertaken by the plaintiff Company, he made efforts to bring the said illegalities and irregularities to the notice of the general public and therefore, the statements made by him in the said interview telecasted by “Suvarna 24/7” channel on 28.6.2011 under the caption “Gowdara Garjane” cannot be called as causing any defamatory comments against the plaintiff Company.

12. During arguments, learned Counsel for the plaintiff has contended that the project undertaken by the plaintiff Company is the project approved by the Government of Karnataka and in the previous many litigations, Hon'ble High Court of Karnataka and the Hon'ble Supreme Court have approved the project and even issued directions to the Government to take steps for implementation of the project – which goes to show that there is no any illegalities and irregularities found in the work undertaken by the plaintiff Company; therefore, the statements made by the defendant are defamatory in nature. He has further contended that even if the defendant has contended that the statements

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made by him are true statements and the same are made only to bring the illegalities in the project to the knowledge of the general public, the defendant has not at all entered into the witness box to give evidence regarding the said illegalities and irregularities of the project undertaken by the plaintiff and therefore, the defendant has failed to prove that the statements made by him in the questioned interview are true statements; therefore, there is sufficient evidence to show that the statements made by the defendant in respect of the project undertaken by the plaintiff Company and also about the plaintiff Company are defamatory in nature and hence, the plaintiff has proved Issue No.1 in its favour. In support of the said arguments, Counsel for the plaintiff has relied upon the following judgments –

- (1) 2005(3) Kar. L.J. 438 (DB) [*All India Manufacturers Organisation, Bangalore – versus– State of Karnataka and others*];
- (2) (2006) 4 Supreme Court Cases 683 [*State of Karnataka and others –versus– All India Manufacturers Organisation*];

- (3) (2011) 3 Supreme Court Cases 408 [*M. Nagabhushan –versus– State of Karnataka and others*];
- (4) Unreported order dated 3.11.2009 of the Hon'ble Supreme Court of India in Contempt Petition (Civil) No.144/2005 [*Dakshinamurthy –versus– B.K. Das, I.A.S., and others*];
- (5) ILR 2013 KAR 4163 [*B.M. Thimmaiah – versus– Smt. P.M. Rukmini and others*];
- (6) (2001) 2 Supreme Court Cases 171 [*S.K. Sundaram – In re*];
- (7) (2016) 7 Supreme Court Cases 221 [*Subramanian Swamy –versus– Union of India*], and
- (8) AIR 1999 SUPREME COURT 1441 [*Vidhyadhar –versus– Mankikrao*].

13. On the other hand, the defendant's Counsel has submitted his oral arguments and filed his written arguments also – in which, he has submitted the list of dates and events showing the BMICP. He has further contended that under Articles 14, 19 and 21 of the Indian Constitution, the defendant has every right to make comment about the projects undertaken by the

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Government; the plaintiff Company, with the connivance of the State, has unauthorisedly undertaken some part of the project; the defendant had held many positions in public life; he was people's representative as Member of Legislative Assembly of Karnataka since 1962, Minister in Karnataka Cabinet, Chief Minister of Karnataka and Prime Minister of India; hence, he has responsible role to play when misdeeds are brought to his notice; the lands acquired by the plaintiff in and around peripheral road runs into more than 50,000 Crores Rupees and hence, it has to be exposed and the State's fund and land are to be protected; therefore, the interview given by the defendant cannot be called as 'defamatory'. In support of his said argument, learned Counsel for the defendant has relied upon the following judgments –

- (1) 1998 SCC OnLine Kar 609 [*H.T. Somashekar Reddy -versus- Government of Karnataka and another*], and
- (2) 2020 SCC OnLine SC 463 [*Bangalore Mysore Infrastructure Corridor Area Planning Authority and another -versus- Nandi Infrastructure Corridor Enterprise Limited and others*].

He has further contended that some other suits before the City Civil Court filed by the present plaintiff against the land owners seeking permanent injunction are also dismissed – which goes to show that the plaintiff is trying to implement the project in question illegally.

14. After careful perusal of the averments contained in the plaint, written statement, evidence adduced and the documents produced by the plaintiff and also upon hearing the arguments, it clearly appears that with regard to interview given by the defendant to the Kannada news channel viz., Suvarna 24/7 as reproduced in the document marked as per Ex.P.2(a), the defendant has not disputed the said fact. Therefore, it appears that the averments of the plaint that on 28.6.2011, the interview of the defendant under the caption “Gowdara Garjane” has been telecasted in Suvarna 24 x 7 news channel, is not in dispute.

15. Regarding the question whether any statement made by the defendant in the questioned interview telecasted by the said Kannada news channel Suvarna 24 x 7 are defamatory to the plaintiff Company or not, is

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concerned, as rightly argued by the Counsel for the plaintiff, as held by the Hon'ble High Court of Karnataka in the ruling reported in ILR 2013 KAR 4163 [*B.M. Thimmaiah -versus- Smt. P.M. Rukmini and others*], in order to find out whether the statement is defamatory or not, the first rule is that whole of the statement complained of must be read and not only a part or parts of it, and it is necessary that in determining the natural and ordinary meaning of the words, the Court must have regard to the fact as to what the words would convey to the ordinary man, and when the natural and the ordinary meaning of the words which are the subject matter of defamation are the same for the lawyer and also for the layman, and when the language used is derogatory, the layman reads by making implications much more freely and the law of defamation is required to take note of the same.

16. Here in the present case, by looking to the judgments relied upon by the learned Counsel for the plaintiff in the judgment reported in 2005(3) Kar. L.J. 438 (DB) [*All India Manufacturers Organisation, Bangalore -*

versus- *State of Karnataka and others*] and (2006) 4 Supreme Court Cases 683 [*State of Karnataka and others -versus- All India Manufacturers Organisation*], it clearly appears that the plaintiff Company has undertaken the project in question on BOOT basis., and subsequent to execution of the Frame Work Agreement, Writ Petitions were filed by the two elected Members of the Legislative Assembly viz., J.C. Madhu Swamy and Srirama Reddy before the Hon'ble High Court of Karnataka challenging the BMICP undertaken by the plaintiff Company and some other Writ Petitions were filed by the All India Manufacturers Organization Company seeking a Writ of Mandamus directing the State Government to execute the project forthwith, and in those Writ Petitions, Hon'ble High Court of Karnataka has considered the validity and legality of the BMICP and has held that the agreement entered into between the plaintiff Company and the Government of Karnataka is valid and proper and directed the State of Karnataka to forthwith execute the project as conceived originally and upheld by the Hon'ble High Court of Karnataka in the previous judgments in Somashekar Reddy's case

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and directed the plaintiff Company to implement the project as expeditiously as possible. Further, when the Government of Karnataka has challenged the judgment of the Hon'ble High Court of Karnataka before the Hon'ble Apex Court, the Hon'ble Supreme Court of India, in the judgment reported in (2006) 4 Supreme Court Cases 683 [*State of Karnataka and others –versus– All India Manufacturers Organisation*], has also upheld the judgment of the Hon'ble High Court of Karnataka and dismissed the appeals filed by J.C. Madhu Swamy and others with cost. This fact on record clearly goes to show that the project being implemented by the plaintiff Company has already adjudged by the Hon'ble High Court of Karnataka and upheld by the Hon'ble Supreme Court of India – which goes to show that the defendant's contention that there are so many illegalities and irregularities in the project undertaken by the plaintiff Company, appears to be incorrect.

17. Further more, in the said interview, the defendant has made comments not only about the project undertaken by the plaintiff Company, but also

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against the Managing Director of the plaintiff Company saying that by colluding with Sri Yadiyurappa, said Ashok Kheny is intending to loot in Crores. Further, he made a comment saying that –

“Loot ಮಾಡಿದ್ದಾರೆ. BOOT Project ಹೋಗಿ Loot Project ಆಗಿದೆ. ಸುಮ್ಮನೆ ಏನೇನು ಯಾರಿಗೂ ಮನಸ್ಸಿಗೆ ನೋವಾಗುವಂತಹ ಮಾತಾಡುವುದು ಬೇಡ. ಇಟ್ ಈಸ್ ಎ Loot Project”.

Further, in the said interview itself, the defendant has made allegations stating that –

“The Land Acquisition Notifications were issued based on the requirement initiated by the Project Promoter Company and not on the basis of the Technical Drawings, Maps or approval by the Government in Public Works Department. ಇದನ್ನು ಲೂಟ್ ಅಂತ ಕರಿತಿದೋ, ಬೂಟ್ ಅಂತ ಕರಿತಿದೋ”.

Further, in the said interview itself, he made a comment about the plaintiff Company stating that –

“ಇದು ದಗಾ ಅಲ್ಪಾ, ಈ ದಗಾ ಹಾಕುವ ಕಂಪನಿ ಜೊತೆ ಸೇರಿಲ್ಲೆ, ಏನು ಸ್ವಾಮಿ.”

“ಖೇಣಿ ಜೊತೆ, He is nothing but a Mafia.”

“ಐದು ಕೋಟಿ ಅವರಿಗೆ, ಐದು ಕೋಟಿ ಇವರಿಗೆ, ಹತ್ತು ಕೋಟಿ ಇವರಿಗೆ, ಯೂರ್ಟಿ ಏನು ಮಾತಾಡುತ್ತೀರಿ ನೀವು.”

“ಯಡಿಯೂರಪ್ಪನ ಸರ್ಕಾರದ ಮೇಲೇನೆ ನನ್ನ ನೇರವಾದ ಆರೋಪನೆ ಪ್ರಾಜೆಕ್ಟ್ ಕಂಪನಿ ಮೇಲೇನೆ ನನ್ನ ನೇರವಾದ ಆಪಾದನೆ, ಯಾಕವು ಅದು ಏನು ಕದ್ದು ಹೇಳಬೇಕೆ?”

18. By looking to the statements made by the defendant in the said interview as observed above, it appears that the same are nothing but the allegations made against the plaintiff Company and its Managing Director.

19. As held by the Hon'ble Supreme Court of India in the judgment reported in AIR 1999 SUPREME COURT 1441 [*Vidhyadhar -versus- Mankikrao*] relied upon by the plaintiff's Counsel, where a party to the suit does not appear into the witness box and state his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct.

20. Here in the present case, though the project undertaken by the plaintiff Company has been adjudged by the Hon'ble High Court of Karnataka and the Hon'ble

Supreme Court of India in which validity of the project has been up held by both the Courts, thereafter the defendant gave an interview to the news channel in which he made certain allegations about the illegalities in the said project and character of the plaintiff Company and its Managing Director. But, when sufficient opportunities were offered by this Court for the defendant to produce evidence regarding the allegations made by him against the plaintiff Company in the interview in question, the defendant has failed to utilize those opportunities and substantiate the statements and comments made by him in the said interview. By looking to the order sheet, the dates and events that have not been utilized by the defendant go to show that even after granting sufficient opportunities to the defendant to produce his evidence, the defendant has not utilized those opportunities to produce his evidence. Therefore, there is nothing on record to show that the allegations made by the defendant against the plaintiff Company in the questioned interview are supported with any cogent documentary proof.

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21. With regard to the allegation made by the defendant about utilizing more land than the land required for implementation of the project, is concerned, as the project in question will be undertaken by the plaintiff Company only after the Government hands over possession of the land required for the project, the plaintiff Company and the plaintiff had no role in deciding about the quantity of the land required for the project. Therefore, the allegations made by the defendant against the plaintiff Company about acquiring more land than the land required by the plaintiff Company for implementation of the project, appears to be false and made by the defendant without there being any documentary evidence regarding the same.

22. Therefore, by looking to the entire evidence on record, it clearly appears that the statements / comments made by the defendant in the interview telecasted by the news channel – Suvarna 24 x 7 are made without any authenticity about the said statements/comments. Hence, the said statements

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made by the defendant are defamatory to the plaintiff  
Therefore, Issue Nos.1, 4 and 5 are answered as above.

23. ISSUE No.2 : The plaintiff has claimed damages of Rs.10,00,00,000/- from the defendant. With regard to damages is concerned, as per the judgment reported in ILR 2001 KAR 4142 in a case *J. Sudhir Chandrashekhar -versus- T. Lokaprakash*, Hon'ble High Court has held that damages are to be awarded in one lump sum under the two heads – which are (1) general damages by way of pecuniary reparation or solatium to the plaintiff for the annoyance, mental pain, inconvenience, etc., (b) compensation for the special damage that he has sustained as a direct consequence of the publication. In the said judgment, it is further held that reputation is most valuable to any person. It is much more valuable than any amount of money or anything else in the world.

24. In the present case, though the plaintiff Company has contended that due to the statements /comments made by the defendant in the questioned interview, plaintiff Company has sustained much loss

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to the reputation, the plaintiff Company has not produced any documents to show that due to the statements/comments made by the defendant against the plaintiff Company, the plaintiff Company has sustained any monetary loss. Therefore, there is no any evidence available to show that due to the publication of the articles in question, plaintiff No.1 Company has sustained any pecuniary loss. Therefore, as held by the Hon'ble High Court in the above said judgment, if an amount of Rs.2,00,00,000/- is awarded to the plaintiff Company as general damages and compensation, the same is sufficient and it would meet the ends of justice. Therefore, taking into consideration the status of the plaintiff Company and gravity of the statements/comments made by the defendant in the questioned interview, it is decided to award an amount of Rs.2,00,00,000/- to the plaintiff Company as damages. Hence, Issue No.2 is answered accordingly as 'partly in affirmative and partly in negative'.

25. ISSUE No.3 : The plaintiff Company has requested to grant permanent injunction against the

defendant to restrain the defendant from making any defamatory statements/comments against the plaintiff Company in future.

26. With regard to this prayer, P.W.1 has deposed that even after filing the present suit, the defendant went on making defamatory allegations against the plaintiff Company and its Promoters/Directors. The said statements are telecasted in *Kasthoori* news channel on 7.12.2013. Such statements are published in many other newspapers like *Deccan Herald* dated 8.12.2013, *The Hindu* dated 8.12.2013, *Vijaya Karnataka* dated 8.12.2013, *Prajavani* dated 8.12.2013, *Udayavani* dated 8.12.2013 and therefore, it is necessary to issue permanent injunction.

27. As already discussed above, as the project in question has been upheld by the Hon'ble High Court of Karnataka and the Hon'ble Apex Court in many judgments, the project undertaken by the plaintiff Company is a massive project – which is in the larger interest of the State of Karnataka. Hence, if defamatory statements like the present one are allowed to be made

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in future, definitely implementation of such massive project like the present one which is undertaken in the larger public interest of the State of Karnataka is going to be delayed. Therefore, this Court feels that it is necessary to curb such statements by issuing permanent injunction against the defendant. Hence, Issue No.3 is answered in affirmative.

28. ISSUE No.6 : For my reasons and discussion on the above Issues, I proceed to pass the following –

O R D E R

Suit of the plaintiff is partly decreed with cost.

The defendant is directed to pay damages of Rs.2,00,00,000/- to the plaintiff Company for the loss of reputation of the plaintiff Company on account of the defamatory comments made by the defendant in the interview telecasted in the “Suvarna 24/7” Kannada news channel dated 28.6.2011 under the caption “Gowdara Garjane”

The defendant is permanently restrained from making any defamatory

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statements against the plaintiff Company in any media, news channel, T.V. channel or in any other means of mass communication in future.

Draw decree accordingly.

(Dictated to Judgment Writer, transcribed by him, revised by me and after corrections, pronounced in open Court on this the 17<sup>th</sup> day of June, 2021.)

(MALLANAGOUDA)  
VIII Additional City Civil and Sessions Judge,  
Bengaluru.

An&/-

A N N E X U R E

1. WITNESS EXAMINED FOR THE PLAINTIFF:

P.W.1 : A. Rudragoud Examined on:  
04-12-2013

2. DOCUMENTS MARKED ON BEHALF OF PLAINTIFF:

Ex.P.1 : Copy of legal notice dated 12.9.2011 along with postal receipt and postal acknowledgement.

Ex.P.2 : One C.D.;

Ex.P.2(a) : Notarized statement regarding carrying out translation in respect of the contents of Ex.P.2.

Ex.P.3 : Acknowledgement.

Ex.P.4 : Postal receipt.

Ex.P.5 : C.D. dated 7.12.2003 (subject to objection)

Ex.P.5(a) : Translation version of Ex.P.5.

Ex.P.6 : *Deccan Herald* newspaper dated 8.12.2013

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- Ex.P.6(a) : Relevant portion marked in Ex.P.6.  
Ex.P.7 : *The Hindu* newspaper dated 8.12.2013;  
Ex.P.7(a) : Relevant portion marked in Ex.P.7.  
Ex.P.8 : *Vijaya Karnataka* newspaper dated  
8.12.2013;  
Ex.P.8(a) : Relevant portion marked in Ex.P.8.  
Ex.P.9 : *Prajavani* newspaper dated 8.12.2013;  
Ex.P.9(a) : Relevant portion marked in Ex.P.9.  
Ex.P.10 : *Udayavani* newspaper dated 8.12.2013;  
Ex.P.10(a) : Relevant portion marked in Ex.P.10.  
Ex.P.11 : *Kannada Prabha* newspaper dated  
8.12.2013;  
Ex.P.11(a) : Relevant portion marked in Ex.P.11.  
Ex.P.12 : *Samyuktha Karnataka* newspaper dated  
8.12.2013;  
Ex.P.12(a) : Relevant portion marked in Ex.P.12.  
Ex.P.13 : *Sunday Express* newspaper dated  
8.12.2013;  
Ex.P.13(a) : Relevant portion marked in Ex.P.13.  
Ex.P.14 : *Deccan Chronicle* newspaper dated  
8.12.2013;  
Ex.P.14(a) : Relevant portion marked in Ex.P.14

3. WITNESS/ES EXAMINED FOR THE DEFENDANT:

Nil.

4. DOCUMENT/S MARKED ON BEHALF OF DEFENDANT:

Nil.

(MALLANAGOUDA)

VIII Additional City Civil and Sessions Judge,  
Bengaluru.

An&/-